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[PROVINCIAL NOTICE NO. 228 OF 2016]**TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE
STANDARD BUILDING REGULATIONS AMENDMENT BY-LAW**

1. Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000], as amended, that the Council of Tswelopele Local Municipality passed amendments on the Standard Building Regulations By-law, Free State Provincial Gazette 79 of 9 December 2011 and adopted by Free State Provincial Gazette 43 of 28 September 2012, at its sitting held on 31 May 2016.
2. The Amendment By-laws are published for the purpose of general public notification.

**TL MKHWANE
MUNICIPAL MANAGER**

STANDARD BUILDING REGULATIONS AMENDMENT BY-LAW

1. By replacing the words "Municipality of Tswelopele" with the words "Tswelopele Local Municipality" where this appear in section 1 in the definition of "Council".
2. By replacing the words "sewerage services" with the words "approved tariff per applicable financial year" where this appear in section 1 in the definition of "tariff".
3. Section 7 is hereby amended by the insertion of the following new item "(5)" after item "(4)":
"(5) All encroachments must be approved by the relevant Head of Department."
4. Section 9 is hereby amended by replacing the expression "400m²" with "240m²".
5. Section 14(1)(b) is hereby amended by the replacing of the whole item with "Surfaces visible from such street or public open spaces, must be painted."
6. Section 14(1)(c) is hereby amended by the deletion of "white or a different finish or colour as approved by the Council."
7. Section 14(3)(a) is hereby amended by replacing the expression "4,5m" with "1,5m".
8. Section 14(3)(b) is hereby amended by replacing of the whole item with "barbed wire or similar wire and safety spikes in any area, must be visible from any street, public open space or adjacent erf."
9. Section 15(1) is hereby amended by the insertion after the word "properly" of the words "installed and maintained." and the deletion of the words "painted within fifteen months after construction thereof if the Council so requires."
10. Section 15 is hereby amended by the deletion of item "(2)."

[PROVINCIAL NOTICE NO. 229 OF 2016]**TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE
STANDARD INFORMAL SETTLEMENTS AMENDMENT BY-LAW**

1. Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000], as amended, that the Council of Tswelopele Local Municipality passed amendments on the Standard Informal Settlements By-law, Free State Provincial Gazette 194 of 9 December 2011 and adopted by Free State Provincial Gazette 43 of 28 September 2012, at its sitting held on 31 May 2016.
2. The Amendment By-laws are published for the purpose of general public notification.

**TL MKHWANE
MUNICIPAL MANAGER**

STANDARD INFORMAL SETTLEMENTS AMENDMENT BY-LAW

1. By replacing the definition for "Manager Informal Settlements" with the definition "Responsible official for informal settlement related matters".
2. By replacing the title of section 2 with "APPOINTMENT OF RESPONSIBLE OFFICIAL FOR INFORMAL SETTLEMENTS"
3. By amending section 2(1) by replacing the word "may" with the word "to" and by the deletion of the phrase "as its Manager: Informal Settlements"
4. By amending section 2(2) by replacing the term "Manager: Informal Settlements" with the term "Responsible Official for Informal Settlements".
5. By replacing the term "Manager: Informal Settlements" with the term "Responsible Official for Informal Settlements" in the title of section 3.
6. By replacing the term "Manager: Informal Settlements" with the term "Responsible Official for Informal Settlements" in section 3.
7. By replacing the term "Manager: Informal Settlements" with the term "Responsible Official for Informal Settlements" where this appear in sections 3(5)(d), 4, 5(1), 5(2), 5(3), 6(1), 6(2), 6(4), 7(1), 7(2), 7(6), 8(1), 8(4), 8(5), 8(6), 8(7), 8(8), 9(1), 9(3), 9(3)(c)(iii).

[PROVINCIAL NOTICE NO. 230 OF 2016]**TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE
GENERAL STREET AND TRAFFIC ENFORCEMENT BY-LAW**

1. Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000], as amended, that the Council of Tswelopele Local Municipality passed the General Street and Traffic Enforcement By-law at the sitting held on 31 May 2016.
2. The By-law is published for the purpose of general public notification.

**TL MKHWANE
MUNICIPAL MANAGER**

GENERAL STREET AND TRAFFIC ENFORCEMENT BY-LAW**CHAPTER I**

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CHAPTER I

1. DEFINITIONS

“Authorised officer means”

1. A peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977).
2. Any member of South African Police Service as contemplated in the South African Police Services Act, 1995 (Act 68 of 1995).
3. A Traffic Officer appointed under the National Road Traffic Act, 1996 (Act 93 of 1996).

“Animal” includes any horse, mare, gelding, fowl, bull, ox, cow, bullock, steer, heifer, calf, mule, donkey, lamb, sheep, goat, pigs, ostrich, cat or dog.

“Bird” means a warm blooded egg laying vertebrate animal distinguished by the possession of feathers, wings, and a beak and typically being able to fly.

“By-law” means a by-law as contemplated in Part B of Schedule 5 read with section 156(1)(a) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), section 76, 80A and Chapter IV of the National Road Traffic Act, 1996, (Act 93 of 1996) as amended, application of Free State Public Transport Act, 2005 (Act 4 of 2005).

“Council” means Tswelopele Local Municipality as established in terms of section 12(1) read with section 12(2) of Local Government Municipality Structures Act, 1998 (Act 117 of 1998).

“Day” means a period between sunrise and sunset

“Demarcated space” means a space in which a vehicle is to be parked in terms of this by-law, demarcated by means of one or two white lines upon the surface of a parking ground or floor thereof.

“Direction Sign” means a type of guidance sign system and used to indicate to road user(s) the direction to be taken in order that they may reach their intended destination.

“Director” means a Head of Department or and any other person authorised by the Council to act on his/her behalf.

“Display on sign” shall include erection of any structure if such is intended solely or primarily for the support of such sign.

“Display period” means the exposure time during which the individual advertising message is on display.

“Driver” shall have the meaning assigned to it by the National Road Traffic Act 1996, (Act 93 of 1996), as amended.

“Footpath” shall mean that portion or lateral extremities of the street which although actually defined or made, is habitually used by pedestrians as a sidewalk.

“Goods” means without detracting from the generality thereof goods, wares, water, sand, stone and (Act 93 of 1996), merchandise of all kinds including livestock.

“Inspector of licences” shall have the meaning as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996), as amended.

“Intersection” means intersection as defined in section 1 of the National Road Traffic Act, 1996, (Act 93 of 1996), as amended.

“Kerb line” shall mean the boundary between the roadway and the footpath, usually indicated by means of a raised kerb.

“Motor vehicle” means a vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996) hereafter referred to “NRTA”.

“Merge” means merge as defined in section 1 of NRTA.

“Municipality” means geographical area, municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998).

“Night” means a period between sunset and sunrise.

“NRTA” means the National Road Traffic Act, 1996, (Act 93 of 1996), as amended.

“Operate on a public road” or any like expression in relation to a vehicle, mean to use or drive or to permit to be used or driven on a public road or to have or to permit to be on a public road.

“Owner” in relation to a vehicle means;

1. The person who has the right to use and enjoyment of vehicle in terms of common law or a contractual agreement with the title holder of such vehicle as defined in section 1 of NRTA.
2. Any person who is registered as such in terms of Section 14 of the NRTA.
 "Park" means to keep a vehicle, whether occupied or not stationery for a period of time longer than it is reasonably necessary for the actual loading or off-loading of persons or goods, but does not include any such keeping of vehicle by reason or a cause beyond the control of the person in charge of such vehicle.
 "Particulars" means any form of information of any party and shall include the name, surname, company name, residential, business or email address, telephone, cellular or fax number of any such information.
 "Passenger carrying motor vehicle" means a taxi or bus used or designed to convey passengers for reward.
 "Pavement" means a sidewalk as defined in section 1 of the NRTA.
 "Poster and notices" means any placard announcing or attracting public attention to any meeting, event, function or activity or undertaking or to the candidate of any other person nominated for election of Parliament, the Local Government or similar body or to a referendum.
 "Pound" means a place set aside by the Council for the custody of vehicles.
 "Prescribed" means determined by the Council by special resolution from time to time.
 "Province" means Free State Province established in terms of section 103 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).
 "Public Road" means a public road as defined in section 1 of the NRTA.
 "Public place" means any foot pavement, footpath, sidewalk, lane, square, open space and includes any public road.
 "Public building" means any building to which the public has unrestricted access to.
 "Rank" in relation to a taxi means a place upon a public road where a taxi may stand to ply for hire or pick up passengers for their conveyance for reward.
 "Registering authority" means any registering authority appointed under section 3 of the NRTA.
 "Road traffic sign" means a traffic sign as prescribed in section 56 on NRTA, the detailed dimensions and applications of which are controlled by the South African Road Traffic Manual.
 "Roadway" means a road as defined in section 1 of NRTA.
 "Sidewalk" means a sidewalk as defined in section 1 of the NRTA and includes the median of a public road.
 "Stop" in relation to a taxi stopping on a public road, means to keep a taxi, whether occupied or not, stationery for a period of time not longer than is reasonably necessary for the actual loading or off-loading of persons or goods, but does not include any such stopping by reason or a cause beyond the control of the driver of such a taxi.
 "Tariffs" means a fee approved by Council with regard to the relevant legislation that should be applicable for the purpose of this by-law.
 "Taxi association" means a taxi association recognised by Council and as registered by the Provincial Department of Transport.
 "Taxi operator" means a person who has been registered as operator of vehicle in terms of chapter VI of NRTA.
 "Taxi rank" means a facility identified by the Council as a place where taxis stand to await passengers.
 "Trade" means selling of goods or offering or rendering of services in a public place.
 "Vehicle" means a vehicle as defined in section 1 of NRTA.

CHAPTER II TRAFFIC

2. PARKING

- (1) A vehicle shall not be parked for a continuous period of time exceeding 12 hours on a public road.
- (2) Subject to the provision of section 2(1) no person shall, between the hours of 19:00 on one day and 06:00 the following day park:
 - (a) A motor vehicle which exceed 3 500 kg in Gross Vehicle Mass
 - (b) A trailer
 - (c) A tractor
 - (d) A caravan
 - (e) An animal drawn vehicle
- (3) The provision in subsection (2) shall only apply to these public roads within the Central Business Districts (CBD): President Swart Street, Davin Street, Andrew Murray Street, Van Zyl Street and Japhet Street.
- (4) The provision of subsection (2) shall not apply to any vehicle that has been parked as a result of accident, breakdown or other emergency for no longer than is necessitated by such accident, breakdown or other emergency.

3. TURN WITH A COMBINATION OF VEHICLES

No person shall turn with any vehicle that draws a semi-trailer, trailer or a combination of vehicles at any crossing for the purpose of driving in the opposite direction.

4. ABANDONING AND PARKING A VEHICLE ON A PUBLIC ROAD

A vehicle which has been in a place or in such a manner that it creates a danger or obstruction or has been parked or left standing in contravention of any notice or traffic sign; may immediately be wheel clamped or removed by an authorised agent and impounded by Traffic Officer.

The owner or the driver or person in charge of a vehicle which has been wheel clamped by a Traffic Officer of the Traffic Division of the Municipality may request Traffic Officer to remove the wheel clamp on payment of the fee as determined by Council from time to time provided no fee is payable for the removal of a wheel clamp from a stolen or defective vehicle.

A vehicle which is removed or taken to a pound or place of safety in terms of the provision of this regulation, is kept in a pound or place of safety at the owner's risk and may be released by the owner or person in charge thereof upon payment as per Council determined tariff.

5. TRAFFIC SIGNALS

- (1) To assist with traffic control, the Council may erect traffic signals, signs and safety zones.
- (2) No pedestrian, driver of a vehicle or rider of any animals or motor cycle or pedal cycle shall disobey the signals of any mechanically, manually or electrically controlled traffic signal or mark upon any street unless otherwise directed by an authorised officer.

6. TRAFFIC SIGNS AND NOTICES

- (1) All traffic notices and signs placed by Council in or upon any street in terms of any law for the regulation and control of traffic and /or prohibition, restriction, regulation and control of parking shall be obeyed by all persons using such road.
- (2) All traffic notices and traffic signs in any road relating to regulations and control of traffic and the probation, restriction and parking shall be so deemed until the contrary is shown, to be notices and signs of the Council.
- (3) No person other than an employee of the Council or authorised agent shall place in or upon any road any notices or signs affecting or intended to affect the movement of traffic and/or parking of vehicles in or upon any road.
- (4) No person shall remove, mutilate, obscure or in any manner damage or interfere with any traffic notice, traffic sign or traffic signal placed by Council in or upon any road under the authority of any law or any person contravening this section shall be liable, in addition to any penalty which may be imposed under this by-law, to repay to the Council cost of repairing and/or placing such notice, sign or signal or removing any obstruction thereof.

7. SIDEWALK

- (1) No person shall place upon, load on, transport across roadway or sidewalk in any street any materials or goods without the approval of Council.
- (2) No person shall erect any barrier, poles, chains or any other obstruction on any sidewalk without prior written approval of the Council and the barriers, poles, chains or any other obstructions erected, may not in any way impede the normal pedestrian traffic flow.

8. CLOSING OF PUBLIC ROAD

- (1) No person shall enter or use any street, road, thorough fare, square, and other public place, garden, park, or other enclosed space lawfully closed by Council for the purpose of such entry or use.
- (2) No person shall close a road, street, park or other public places without the prior written authorisation from the responsible departmental head.
- (3) An application with respect to the provision of subsection (2) must be accompanied by a letter signed by at least five neighbours or owners of adjacent businesses operating on such road giving consent to such closure.

9. DAMAGE TO PROPERTY AND PUBLIC ROAD

- (1) No person shall intentionally or negligently, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause damage to any tree, electric standard or service or other Council installations.
- (2) No person shall intentionally or negligently, in the course of erecting or removing any temporary structure cause damage to a public road.
- (3) If any person causes damage to a public road or any other Council Installation, the person shall be liable to the cost incurred by Council in repairing such road or installation to the standard condition.

10. CROSSING PRIVATE PROPERTY TO BYPASS A TRAFFIC SIGN

No person shall drive onto or across any private property in an effort to avoid compliance with a traffic sign.

11. REPAIRS OF VEHICLE ON A PUBLIC ROAD

No person or his/her agent shall, on a public road, repair any vehicle (except in case of emergency when the repair on the spot is necessary) or wash, clean any article whatsoever.

12. THE USE OF AMPLIFIER OR LOUD SPEAKER

- (1) No person shall use or allowed to use a loudspeaker or amplifier in order to increase the volume of the sound of radios, musical instruments or similar apparatus in such a way as to cause a nuisance to his neighbours or general public within the municipality.
 - (2) No person shall without the consent of the responsible departmental head in writing, play or permit the playing of music or use or permit the use of any loudspeaker or public address, or other audible on or adjacent to or which may be heard in street or public places.
 - (3) No person shall at any time sound a warning device on any vehicle in such a manner as to produce shrieking, raucous, or offensive noise provided, however that were in the case of emergency the driver of a vehicle acts with the object or avoiding an accident, the use of such warning device shall not constitute an offence.
 - (4) This shall not involve the use of an amplifier by the Municipality or if the permission has been granted. Any person, who wants to use an amplifier, loudhailer, or any other device that may cause noise in contravention of the by-law applicable within the jurisdiction of the Municipality, should apply to the Municipality for approval.
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13. ESCORT OF ABNORMAL VEHICLES

- (1) Escort of vehicles that are abnormally large, will be provided by the Council against payment of the tariff as determined by Council, paid to the Council in cash or by way of bank-guaranteed cheque.
- (2) Escort will only be provided if all requirements of NRTA are complied with.

14. TARIFFS FOR ASSISTANCE WITH SPORTING EVENTS, PROCESSIONS AND OTHER GATHERINGS

- (1) Applications for assistance by Traffic Officers during sporting events, processions and other gatherings in general, except funeral processions shall be submitted in writing at least 14 days prior the event to the Municipality.
- (2) The tariffs, as determined by the Council, shall be payable for the assistance mentioned in subsection (1) above provided that:
 - (a) The tariff(s) determined by Council is paid in cash or by bank-guaranteed cheque(s) at least 48 hours prior to commencement of such assistance.
 - (b) The Council may in its discretion exempt the applicant from payment upon written reasons being provided to the Council prior the commencement of the event. In the event that the Council is unable to grant exemption for whatever reason prior to the commencement of the event, the applicant shall pay the tariff(s), which shall, if the exemption is granted thereafter, be refunded to the applicant.

15. CONTROL OF ANIMALS

- (1) No person shall in or along any street:-
 - (a) Allow any animal which is his/her property or under his/her control, to be let loose or to wander uncontrolled.
 - (b) Leave an animal which is hurt, weak, sick, dying, except to obtain assistance to remove such animal; or
 - (c) By making noise, gestures, and gesticulations or in any other way frighten or irritate an animal.
 - (d) Drive or use or cause to be driven or used for any purpose whatsoever in any street, any animal which is so diseased or injured or in such physical condition that it is unfit to do any work or is causing or likely to cause an obstruction to traffic or injury to health or be offensive or nuisance to any person.
- (2) For the purpose of this section, the word "animal" does not include a dog or a cat.

16. KEEPING OF ANIMALS

- (1) No person shall keep any animal or bird that may disturb public peace.
- (2) No person shall without a permit issued by Council keep any wild animal, reptile; insect which has an inherent propensity to attack human beings or animals or the keeping of which is likely to become a nuisance or cause injuries to the health of or is fraught with danger to any person.
- (3) Any keeping of animal, reptile or insect, of which is prohibited in terms of subsection (2) may, if found at large, or if found to be kept by anyone without the permit as contemplated in subsection (2), be removed by an authorised officer or authorised agent and Council may recover the cost of so doing from such person.
- (4) Any animal referred to in subsection (3) found at large or apparently abandoned within the municipal jurisdiction may be destroyed by an authorised officer or authorised agent without any further warrant. The Council shall cause such animal to be removed and buried and the owner or the person who last had the animal in captivity shall be liable, in addition to any penalty that maybe imposed under this by-law, to pay to the Council reasonable sum to defray the cost of destruction, removal and burial of such an animal.

17. UNCOVERED CARCASSES

No person shall carry or convey through or along any street the carcass of any animal or any offal unless it is properly covered.

**CHAPTER III
TAXIS**

18. THE PARKING OF TAXIS

- (1) No taxi driver shall park or operate after 10H00 in the Central Business District, ply for special hire, loading or offloading passengers at a specific place without the knowledge of taxi rank manager.
- (2) It is the responsibility of the driver to notify the rank manager or any other person executing similar functions and duties when he/she is on special hire or loading or offloading passengers at any specific place within the CBD after 10H00 other than taxi rank.
- (3) No garage, public road or property shall be used as a taxi rank for loading or offloading of passengers.

19. THE PARKING OF TAXIS AT SHOPPING PLACES

- (1) No driver of any taxi is allowed to park at a shopping place.

**CHAPTER IV
ADVERTISEMENTS**

20. RESPONSIBLE PERSONS

If a person is charged with an offence relating to any sign, advertising hoarding or poster-

- (1) It shall be deemed that he/she either displayed such sign, advertising hoarding or poster or caused or allowed it to be displayed unless contrary is proved.
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- (2) The owner of any land or building on which any sign, advertising hoarding or poster which was displayed, shall be deemed to have displayed such sign or advertising hoarding.
- (3) Any person who was either alone or jointly, with any other person responsible for organising or was in control of any meeting, function or event to which a sign poster relates, shall be deemed to have displayed every sign or poster displayed in connection with such meeting, function or event or have caused or allowed it to be displayed.
- (4) Any person whose particulars appear on a sign, advertising hoarding or poster shall be deemed to have displayed such a sign, advertising hoarding or poster or have caused or allowed it to be displayed unless contrary is proved.

21. REMOVAL OF ADVERTISING HOARDINGS

- (1) If any sign or advertising hoarding is displayed so that in the opinion of the Council it is detrimental to the environment or to the amenities of the neighbourhood, or otherwise in contravention of this by-law, the Council may request or serve a notice on the owner of the sign or advertising hoarding. The notice may direct the owner of the sign or advertising hoarding or carry out such alteration thereto or do such work as maybe specified in such request or notice within a time specified.
- (2) If a person fails to comply with a confirmed request or notice referred to in subsection (1), the Council may remove such sign or advertising hoarding or do or cause the required work to be done on it and claim the reasonable costs relating from removing it or the work involved from the owner.
- (3) The Council shall in removing a sign or advertising hoarding contemplated in subsection (1), not be required to compensate any person, in respect of such sign or advertising hoarding in any way for loss or damage resulting from its removal.

CHAPTER V TARIFFS, OFFENCES AND PENALTIES

22. TARIFFS

- (1) The Council may determine the tariffs or fees from time to time in accordance with section 4(a) Local Government Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) All refundable deposits will be forfeited to the Council in the event of non-compliance of any of the foregoing by-law.

23. POWERS

- (1) In terms of section 156(2) read with section 229 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Council may make and administer by-law for the effective administration of matters, which it has a right to administer.
- (2) The authority to administer by-law vests in Council in terms of inter-alia:
 - (a) Part B of Schedule 5 read with section 156(1) (a) and 156(2) of the Constitution of the Republic of South Africa, 1996..
 - (b) Section 11 of the Local Government: Municipal Systems Act 2000, Act 32 of 2000.
 - (c) Chapter VI of the Nation Road Traffic Act, 1996.
 - (d) Application of the provisions of the National Land Transport Act, 2009 (Act 5 of 2009) and Free State Passenger Transport Act, 2005 (Act 4 of 2005).
 - (e) Section 64 of the South African Police Services Act 1995, (Act 68 of 1995) as amended by amendment Act 1998, (Act 83 of 1998).

24. OFFENCES AND PENALTIES

- (1) A person who contravenes or fails to comply with any provision of this by-law or with any direction, requirement, demand, determination, term or request thereunder shall be guilty of an offence.
- (2) Any person convicted of an offence in terms of subsection (1) read with any other section in terms of this by-law shall be guilty and be liable to a fine or imprisonment not exceeding six months
- (3) Notwithstanding anything contrary contained in a law, a Magistrate's Court shall be competent to impose any penalty provided for in this by-law.

25. SHORT TITLE AND COMMENCEMENT

- (1) This by-law shall be called Tswelopele Local Municipality General Street and Traffic Enforcement by-law and shall come into operation on the date of proclamation in the Government Gazette.

[PROVINCIAL NOTICE NO. 231 OF 2016]

TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE STANDARD WATER RESTRICTIONS BY-LAW

1. Notice is hereby given that the Council of Tswelopele Local Municipality adopted the Standard Water Restrictions By-law, as published by the MEC for Cooperative Government and Traditional Affairs in the Free State Provincial Gazette 84 of 9 December 2011, at its sitting held on 31 May 2016.
 2. The Standard Water Restrictions By-law was adopted with the following amendments:
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1. By the insertion of the word "Tswelopele" after the words "Municipality of" where this appears in section 1 under the definition of "Council".
2. Section 6(2) is hereby amended by the insertion of the words "not exceeding R750-00 per offence" after the word "fine" and by the deletion of the words "or to such imprisonment without the option of a fine or to both such fine and such imprisonment."
3. Section 9 is hereby amended by the insertion of the word "Standard" before the words "Water Restrictions By-law" and by the substitution of "2011" with "2016".

TL MKHWANE
MUNICIPAL MANAGER

[PROVINCIAL NOTICE NO. 232 OF 2016]

**TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE
WASTE MANAGEMENT BY-LAWS**

1. Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000], as amended, that the Council of Tswelopele Local Municipality passed the Waste Management By-laws at the sitting held on 31 May 2016.
2. The By-laws are published for the purpose of general public notification.

TL MKHWANE
MUNICIPAL MANAGER

WASTE MANAGEMENT BY-LAWS

CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

In these by-laws, any word or expression to which a meaning has been assigned in the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) and the Local Government:

Municipal Systems Act, 2000 (Act 32 of 2000); and associated regulations shall have the meaning so assigned and, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa, and-

"Building waste" means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition.

"Bulky waste" means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the council or service provider;

"by-law" means legislation(waste by-law) passed by the municipality's council which is binding on persons who resides within, visiting the area of authority of the municipality or using municipal services;

"Garden waste" means organic waste which emanates from gardening or landscaping activities at residential, business or industrial premises including but not limited to grass cuttings, leaves, branches, and includes any biodegradable material and excludes waste products of animal origin and bulky waste;

"Health care risk waste" means waste capable of producing any disease and includes, but is not limited to the following:

- (a) Laboratory waste;
- (b) Pathological waste;
- (c) Isolation waste;
- (d) Geno toxic waste;
- (e) Infectious liquids and infectious waste;
- (f) Sharps waste;
- (g) Chemical waste; and
- (h) Pharmaceutical waste;

"Industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"Litter" means waste, excluding hazardous waste, arising from activities in public areas that has not been deposited of in a public litter container;

“**Municipality**” means Tswelopele Local Municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“**Municipal Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“**Nuisance**” means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

“**Occupier**” in relation to any premises, means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who, whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business;

“**Owner**” means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, who is over 18 years of age, and any person who obtains a benefit from the premises or is entitled thereto;

“**Receptacle**” means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

“**Service provider/contractor**” means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

“**Tariff**” means the prescribed charge determined by the municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of these by-laws.

2. Objectives of the by-laws

(1) The objectives of these by-laws are to –

- (a) Give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality's jurisdiction;
- (b) Provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
- (c) Ensure that waste is avoided, or where it cannot be altogether avoided, minimised, re-used, recycled, recovered, and disposed of in an environmental sound manner; and
- (d) Promote and ensure an effective delivery of waste services.

3. Scope of application

- (1) These by-laws must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008).
- (2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates waste management, the provisions of this by-law shall prevail to the extent of the inconsistency.
- (3) The by-laws do not override any other national and provincial waste related legislation.

4. Principles

- (1) Any person exercising a power in accordance with these by-laws must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) and the National Waste Management Strategy, which is promoting waste avoidance and minimisation, waste reuse, recycling and recovery, waste treatment and disposal.
- (2) The by-laws seek to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the municipality's jurisdiction.
- (3) The by-laws promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

5. General duty of care

- (1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
 - (a) Waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
 - (b) Waste is reduced, re-used, recycled or recovered;
 - (c) Where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
 - (d) The waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
 - (2) Any person subject to the duty imposed in subsection (1) may be required by the municipality or an authorised official to take measures to ensure compliance with the duty.
 - (3) The measures referred to in subsection (2), that a person may be required to undertake include–
 - (a) Investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
 - (b) Informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
 - (c) Ceasing, modifying or controlling any process, situation or activity which causes damage to the environment;
 - (d) Containing or preventing the movement of pollutants or other causes of damage to the environment;
 - (e) Eliminating or mitigating any source of damage to the environment; or
 - (f) Rehabilitating any damage to the environment.
-

CHAPTER 2: SERVICE PROVIDERS

6. Service providers / Contractors

- (1) The municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the municipality may assign to a service provider any power enjoyed by the municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the municipality.
- (3) Any reference in these by-laws to "municipality or service provider" should be read as the "municipality" if the municipality has not entered into a service delivery agreement, and should be read as "service provider" if the municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality and which must-
 - (a) Accord with the provisions of these by-laws;
 - (b) Be accessible to the public;
 - (c) Establish the conditions of the service including collection times; and
 - (d) Provide for the circumstances in which municipal services may be limited.

CHAPTER 3: PROVISION OF WASTE SERVICES

7. Storage and receptacles for general waste

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the municipality.
- (2) Any person or owner of premises contemplated in subsection (1) must ensure that-
 - (a) The receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
 - (b) On agreed collection date, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
 - (c) Pollution and harm to the environment is prevented;
 - (d) Waste cannot be blown away and that the receptacle is covered or closed;
 - (e) Measures are in place to prevent tampering by animals;
 - (f) Nuisance such as odour, visual impacts and breeding of vectors do not arise;
 - (g) Suitable measures are in place to prevent accidental spillage or leakage;
 - (h) The receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
 - (i) That a receptacle(s) provided by the municipality is not used for any other purpose other than storage of waste;
 - (j) In cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the municipality and arrange for replacement as soon as it comes to their attention;
 - (k) Waste is only collected by the municipality or authorised service provider; and
 - (l) In cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.

8. Collection and transportation

- (1) The municipality may-
 - (a) Only collect waste stored in approved receptacles;
 - (b) Set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection;
 - (c) Collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection;
 - (d) Set the maximum amount of quantities of waste that will be collected;
 - (e) Identify waste streams which may not be collected by the municipality or which are unsuitable for collection; and where such a case exist, advice the owner of alternatives.
- (2) Any person transporting waste within the jurisdiction of the municipality must-
 - (a) Ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
 - (b) Remove or transport the waste in a manner that would prevent any nuisance or escape of material;
 - (c) Maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
 - (d) Not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
 - (e) Ensure that waste is transported or deposited at a waste transfer station, recycling facility and / or disposal facility licensed to accept such waste;
 - (f) Ensure that the vehicle is not used for other purposes whilst transporting waste;
 - (g) Apply to the municipality to register as a transporter of waste in accordance with the requirements set out by the municipality and adhere to all the conditions attached to the registration if the transportation is done for commercial purposes.

9. Waste transfer stations

- (1) Any holder of waste must-
 - (a) Utilise appropriate waste transfer stations as directed by the municipality or service provider; and
 - (b) Adhere to the operational procedures of a transfer station as set out by the municipality.
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10. Waste disposal

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the municipality.
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.
- (3) Any person disposing waste at a municipal owned disposal site must adhere to the site operational procedures approved by the municipality.
- (4) All private waste disposal sites within the jurisdiction of the municipality, must comply to approved local norms and standards and any other relevant legislation.

CHAPTER 4: RECYCLING OF WASTE**11. Storage, separation and collection of recyclable domestic waste**

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the municipality of an intention to undertake such an activity in writing.
- (2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.
- (3) The municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the municipality or service provider.
- (4) In cases where the municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: WASTE INFORMATION**12. Registration and provision of waste information**

- (1) Any person who conducts an activity, which has been identified in terms of provincial and / or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The municipality may, at its own discretion and as reasonably possible, require any facility, person conducting an activity to register and report to the Tswelopele Local Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS**13. Requirements for registration**

- (1) Any person who transports waste for gain / commercial purpose must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008.
- (2) The municipality may, by notice in the Provincial Gazette, require any person or category of transporters to register and report to the municipality information as set out in that notice. The notice may include but not limited to-
 - (a) The application forms;
 - (b) A prescribed fee;
 - (c) Renewal intervals;
 - (d) List of transporters, types and thresholds of waste transported;
 - (e) Minimum standards or requirements to be complied with.

CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES**14. Commencement, conducting or undertaking of listed waste management activities**

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 must upon request by an official of the municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in subsection 7(1) must, at least 60 days before commencement, conducting or undertaking such activity, inform the municipal waste management officer in writing of the intention.

CHAPTER 8: GENERAL PROVISIONS**15. Duty to provide facilities for litter**

- (1) The municipality, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
 - (2) The municipality, or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are-
 - (a) Maintained in good condition;
 - (b) Suitably weighted and anchored so that they cannot be inadvertently overturned;
 - (c) Constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - (d) Of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - (e) Placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
 - (f) Emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
 - (3) In any public place where a receptacle has been placed for the depositing of litter, the municipality may put up notices about littering.
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16. Prohibition of littering

- (1) No person may—
 - (a) Cause litter;
 - (b) Sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - (c) Disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) Allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection 8(1), the municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

17. Prohibition of nuisance

- (1) Any person handling waste within the municipality, either through storage, collection, transportation, recycling or disposal must—
 - (a) Take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
 - (b) Take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;
 - (c) At their own cost, clean any waste causing nuisance to any person or the environment;
 - (d) Ensure compliance to the notice contemplated in sub section (1) (c); the municipality may clean or remedy waste causing nuisance to any person or the environment, at the municipality's cost and claim such cost from the offender.

18. Burning of waste

- (1) No person may—
 - (a) Dispose of waste by burning it, either in a public or private place;
 - (b) Incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the municipality for such purpose.

19. Unauthorised disposal / dumping

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

20. Abandoned articles

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the municipality as having been abandoned, may be removed and disposed of by the municipality as it may deem fit.
- (2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

21. Liability to pay applicable tariffs

- (1) The owner of premises where the municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services, and is not exempted from or reduction of such tariffs due to non-usage, partial or limited use of such services.
- (2) The municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- (3) The municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

22. On-site disposal

- (1) The municipality may, as it deem fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.
- (2) A declaration contemplated in subsection (1) must be published in a Provincial Gazette and may include but not limited to—
 - (a) Time frames for such a declaration;
 - (b) Minimum standards to be adhered to for on-site disposal; and
 - (c) Quantity of waste that may be disposed.
- (3) The municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

23. Storage, collection, composting and disposal of garden waste

- (1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
 - (2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
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- (3) The municipality may, as far as it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the municipality.
- (4) At the written request of the owner or occupier of premises the municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

24. Collection and disposal of bulky waste

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.
- (2) At a request of the owner or occupier of any premises, the municipality may remove bulky waste from premises at a prescribed tariff, provided that the municipality is able to do so with its refuse removal equipment.
- (3) In case the municipality has been called to remove illegally dumped waste on vacant land, the municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

25. Generation, storage, collection, reuse and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—
 - (a) Until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof is kept on the premises on which the waste was generated;
 - (b) The premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) Any building waste which is blown off the premises is promptly retrieved; and
 - (d) Pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed.
- (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
- (3) Should the municipality provide such a service, it shall be done at a prescribed tariff.
- (4) The owner or occupier of premises may apply to the municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must—
 - (a) Have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
 - (b) Be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) Be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
- (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the municipality.
- (7) For the purpose of reclamation of land, re-use or recycling, building waste may with written consent of the municipality, be deposited at a place other than the municipality's waste disposal sites.
- (8) A consent given in terms of subsection (7) shall be subject to the conditions, as the municipality may deem necessary.

26. Special industrial, hazardous or health care risk waste

- (1) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.
- (2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.
- (3) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.

CHAPTER 9: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT

27. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
 - (2) The municipality may—
 - (a) Grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;
 - (b) Alter or cancel any exemption or condition in an exemption; or
 - (c) Refuse to grant an exemption.
 - (3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
 - (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
 - (5) If any condition of an exemption is not complied with, the exemption lapses immediately.
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28. Appeals

(1) A person whose rights are affected by a decision taken by the municipality in terms of these by-laws, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 to the municipal manager or delegated official within 21 days of the date of the notification of the decision.

29. Offences

(1) Any person who—
 (a) Obstructs or hinders the municipality in exercising the powers or performance of functions or duties as outlined in this by-law;
 (b) Contravenes or fails to comply with any provision of these by-laws; or
 (c) Fails to comply with the terms of a notice served upon him or her in terms of these by-laws, shall be guilty of an offence

30. Penalties

(1) Any person who contravenes or fails to comply with a provision of these by-laws is guilty of an offence and liable on conviction to imprisonment for a period not exceeding six months or to a fine not exceeding R3000 or to both such fine and imprisonment.

31. Short title and commencement

(1) These by-laws are called Waste Management By-laws of the Tswelopele Local Municipality, and take effect on the date published in the Provincial Gazette.

32. Repeal of by-laws

(1) Any by-law relating to waste management or refuse removal or disposal within the Tswelopele Local Municipality or any of its predecessors or areas formerly existing under separate municipalities or other organs of state is repealed from the date of promulgation of these by-laws.

[PROVINCIAL NOTICE NO. 233 OF 2016]

**TSWELOPELE LOCAL MUNICIPALITY: PROMULGATION NOTICE
 CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS BY-LAWS**

1. Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act 32 of 2000], as amended, that the Council of Tswelopele Local Municipality passed the Control of Street Vendors, Peddlers or Hawkers By-laws at the sitting held on 31 May 2016.
2. The By-laws are published for the purpose of general public notification.

**TL MKHWANE
 MUNICIPAL MANAGER**

BY-LAWS RELATING TO THE CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS

CHAPTER 1: INTERPRETATION

1. Definitions

In this by-law, unless the context indicates otherwise, any expression to which a meaning has been assigned in the Business Act, 1991 (Act 71 of 1991) and the Road Traffic Act, 1989 (Act 29 of 1989) is, when used in these By-laws, have the meaning thus assigned and in this by-law, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa, and-

“**council**” means the municipal council of the Tswelopele Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates

“**street vendor, peddler or hawker**” means any person carrying on business, whether as principal, employee or agent, by selling any goods or services -

- (i) which is conveyed from place to place, whether by vehicle or otherwise;
- (ii) on a public road or at any other place accessible to the public;
- (iii) in, on or from a movable structure or stationary vehicle;

“**foodstuffs**” means any foodstuffs which are prepared elsewhere or at the street trading site and which are sold as meals or snacks and excludes all fresh fruits and vegetables;

“**residential area**” means those areas in Tswelopele used mainly for residential purposes;

"**rural area**" means all areas in the municipality excluding the business and residential areas;

"**sidewalk**" means that portion of a public road intended for the use of pedestrians;

"**street trader**" means any person carrying on business, whether as principal, employee or agent, by selling, supplying or offering any goods or the supplying or offering to supply any service for reward, in or from a public road or public place in the municipality; but excludes business traders as defined in the Business Act;

"**street trading**" means conducting of the business of a street trader;

"**street trading identity card / permit**" means a card issued by the Council to a street trader selling in the business area, identifying him and the street trading site from where he may conduct street trading;

"**street trading site**" means a site in a public place, determined and approved by the Council, from where street trading may be conducted;

"**nuisance**" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a health risk or a source or danger to human lives or property or which interferes with persons ordinary comfort, convenience, peace or quiet;

"**officer**" means-

(i) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act 29 of 1989);

(ii) a member of the Force as defined in section 1(1) of the South African Police Services Act, 1995 (Act 68 of 1995).

(iii) a peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

"**public place**" includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right;

"**public road**" means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof has a right of access and includes -

(i) the verge of any such road, street or thoroughfare;

(ii) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and

(iii) any other work or object forming part of or connected with or belong to such road, street or thoroughfare;

"**sell**" includes to prepare, process, store, offer or display for sale;

"**sidewalk**" means that portion of a verge intended for the exclusive use of pedestrians;

"**the Act**" means the Business Act, 1991 (Act 71 of 1991);

"**verge**" means that portion of the road, street or thoroughfare which is not the roadway.

CHAPTER 2: STREET TRADING IN THE BUSINESS AREA

2. Street Trading

Street trading is allowed within the business area, subject to the provisions of these by-laws and other applicable legislation.

3. Street Trading Site and Identity Card and Reflectors

- (1) No person may conduct the business of a street trader in the business area without being in possession of a valid street trading identity card issued by the Council.
- (2) A person who wants to do street trading in the business area must apply to the Council on a prescribed form for the allocation of a street trading site to him.
- (3) On allocation of such a site to the applicant, a street trading identity card will be issued to him, after payments of the prescribed fees, if any, and can only trade from such a site.
- (4) All street trading sites will be leased to the street traders at a fee as determined by the Council from time to time.
- (5) No street trading identity card will be issued to a street trader selling foodstuffs before he obtained a trading license and certificate of acceptability therefore from the Environmental Health sub-directorate of the Municipality.
- (6) Such street trading identity card issued by the Council must on demand be provided to an officer or an employee of the municipality.
- (7) The Council may reduce, extend and or disestablish any street trading site. At least 30 days written notice will be given to a street trader to vacate a site that will be disestablished.

4. Cancellation of Street Trading Identity Card

- (1) The Council may withdraw and cancel a street trading identity card if:
 - (a) a street trader fails to pay any prescribed fees as determined by Council to the Municipality within a period of 60 days, and
 - (b) a street trader is found guilty of a contravention of any of these by-laws.

5. Street Trading Structures

- (1) The Council may erect structures on street trading sites in the business area, which structures shall be leased on a monthly basis to the street trader to whom the site have been allocated in terms of section 3.
- (2) A street trader shall on demand, produce a proof of payment of the lease for the structure to an officer or an employee of the municipality

6. Exemption and Closing of Street for Trading

- (1) The municipality may exempt any person, organisation, group or committee from obtaining a street trading identity card for a specific event or function and for a specific period. Such exemption must be in writing, and must on demand be provided to an officer or employee of the municipality.
- (2) The municipality may upon written application, authorise, in writing, the closure of any street for a specified period for the purposes of a specific event or function. Such authorisation must on demand be provided to an officer or employee of the municipality.

7. Prohibited Goods

- (1) The following goods may not be sold by street traders in the business area:
- (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry except with the prior written approval of the Council;
 - (b) raw meat or raw fish;
 - (c) milk;
 - (d) any form of alcohol or alcoholic drinks;
 - (e) vehicles, trailers or caravans;
 - (f) any noxious or smelly substance or article that may cause a nuisance;
 - (g) pesticides, insecticides, poisonous and, or hazardous substances;
 - (h) any counterfeit goods or articles and any goods prohibited by legislation;

8. Prohibited Areas

- (1) Street trading in the business area may only be conducted from a street trading site allocated by the Council in terms of section 3, and it is prohibited to sell from any site:
- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access without prior approval from Council;
 - (b) on a sidewalk adjacent to :
 - (i) a building belonging to or occupied solely by the Council or an organ of state;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);
 - (iv) an automated teller machine or at any entrance to any bank or other financial institutions;
 - (c) at a place where:
 - (i) it causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) it causes an obstruction to vehicle traffic;
 - (iii) it substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
 - (d) on a sidewalk adjacent to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street trader concerned, without the consent of that person;
 - (e) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
 - (f) within 5 (five) metres of any signalised intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than 2 (two) metres from the edge of the road and not within 20 (twenty) metres from any priority controlled (unsignalised) intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than 2 (two) metres from the edge of the road;
 - (g) at any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
 - (h) within the reserve of any road;

CHAPTER 3: STREET TRADING IN THE RESIDENTIAL AREA**9. Street Trading**

Street trading is allowed within the residential area, subject to the provisions of these by-laws and other applicable legislation.

10. Prohibited Goods

- (1) The following goods may not be sold by street traders in the residential area:
- (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry, except with the prior written approval of the Council;
 - (b) raw meat or raw fish;
 - (c) milk;
 - (d) any form of alcohol or alcoholic drinks;
 - (e) vehicles, trailers or caravans;
 - (f) any noxious or smelly substance or article that may cause a nuisance;
 - (g) pesticides, insecticides, poisonous and, or hazardous substances;
 - (h) any counterfeit goods or articles and any goods prohibited by legislation;

11. Prohibited Areas

- (1) Street trading in the residential area may not be conducted:
- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access;
 - (b) on a sidewalk adjacent to :
 - (i) a building belonging to or occupied solely by the Council or an organ of state;
 - (ii) a church or other place of worship;
 - (iii) a building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);
-

- (c) at a place where:
 - (i) it causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) it causes an obstruction to vehicle traffic;
 - (iii) it substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
- (d) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (e) within 5 (five) metres of any signalised intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than 2 (two) metres from the edge of the road and not within 20 (twenty) metres from any priority controlled (unsignalised) intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than 2(two) metres from the edge of the road;
- (f) at any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
- (g) within the reserve of any road.

CHAPTER 4: STREET TRADING IN THE RURAL AREA

12. Street Trading

Street trading is allowed within the rural area, subject to the provisions of these by-laws and other applicable legislation.

13. Prohibited Goods

- (1) The following goods may not be sold by street traders in the rural area:
 - (a) raw meat or raw fish;
 - (b) milk;
 - (c) any form of alcohol or alcoholic drinks;
 - (d) vehicles, trailers or caravans;
 - (e) any noxious or smelly substance or article that may cause a nuisance;
 - (f) pesticides, insecticides, poisonous and, or hazardous substances;
 - (g) any counterfeit goods or articles and any goods prohibited by legislation;

14. Prohibited Areas

Street trading in the rural area may not be conducted from any place where it causes any traffic hazard or an obstruction to a vehicular entrance.

15. Control measures

- (1) No street vendor, peddler or hawker must-
 - (a) sleep overnight at his or her place of business or erect any structure for the purpose of providing shelter, without the prior written approval of the Council;
 - (b) carry on his or her business in such a manner as to-
 - (i) create a nuisance;
 - (ii) damage or deface the surface of any public road or public place or any other property of the Council;
 - (iii) create a traffic hazard;
 - (c) litter, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place or waterway, other than in a refuse receptacle approved by the Council;
 - (d) burn any goods, materials or refuse or start a fire for any reason other than preparing foodstuffs for which the street trader has the necessary approval;
 - (e) permit or cause any goods, receptacles or refuse to be placed outside the demarcated confines of the approved street trading-stand;
 - (g) sell his goods or services in or at a building or property without the consent of the owner, lawful occupier or person in control of such building or property;
 - (h) take up position or place his goods or property on a public place in contravention of a notice or sign erected or displayed by the Council for purposes of these by-laws;
 - (i) commence selling before 07:00 or sell after 20:00.
- (2) A street trader shall:
 - (a) remove every day from any public road or public place at the conclusion of selling, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him from this provision, has been given by the Council;
 - (b) conduct street trading in such a manner as not to be a danger or threat to public health or public safety;
 - (c) at the instruction of an officer or an employee of the Council, move or remove any goods, receptacle, vehicle or structure used for his business, or any litter and refuse on or adjacent to his stand.

16. Removal and impoundment

- (1) An officer may remove and impound any goods, receptacle, vehicle or structure which he reasonably suspects are being used or are intended to be used or have been used in or in connection with street trading-
-

- (a) which are prohibited goods in terms of sections 7,10 or 13;
 - (b) which he finds at a place where street trading is prohibited;
 - (c) which a street trader has failed or refused to remove from the place after having been instructed to do so by an officer or an employee of the Council, or which have been left there or abandoned.
- (2) An officer acting in terms of sub section 1–
- (a) shall issue to a street trader a written proof of impoundment for any goods, receptacle, vehicle or structure so removed and impounded: Provided that the officer may attach the written proof to an approved structure if no person is available to receive the written proof and where no structure is available the written proof of impoundment shall be kept in the Municipality's records;
 - (b) shall forthwith deliver any such goods, receptacle, vehicle or structure to the Council;
 - (c) may, and shall on instruction of an Environmental Health Officer destroy all perishable and prohibited goods after 24 hours after impounding the said goods.
- (3) Goods, excluding prohibited goods, receptacles, vehicles or structures can be returned to a street trader after payment of the determined fines and prescribed fees levied for impounding and storing, except if a magistrate makes another ruling in this regard.
- (4) The Council may discard with, sell or give away any goods, receptacles, vehicles or structures that have not been collected from the Council in terms of subsection (3), within 14 days after the date of impoundment.
- (5) An officer, the Council or an employee of the Council shall not be liable for any loss or theft of or damage to any goods, receptacle, vehicle or structure removed and impounded and, or destroyed in terms of these By-laws. An officer, the Council or an employee of the Council is not liable for any loss or theft of or damage to any goods, receptacle, vehicle or movable structure removed and impounded in terms of these By-laws.

17. Display of approval

A street vendor, peddler or hawker must carry on his or her person a valid trading card or written approval granted or issued to him or her by the Council in terms of these regulations and must on demand show such written approval to an officer or an employee of the Council.

18. Delegation

Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under these by-laws, to any person in its employ subject further to such conditions as it may deem necessary.

19. Offences and penalties

- (1) A person who–
- (a) contravenes any provision of these By-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - (b) threatens, resists, interferes with or obstructs any officer or any employee of the Council in the performance of his or her duties or functions in terms of or under these By-laws, or
 - (c) deliberately furnishes false or misleading information to an officer or an employee of the Council, is guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding three months.
 - (d) fails to comply with an instruction from an officer to move or remove his or her goods, receptacles structures, litter or refuse;
 - (e) fails to comply with any condition granted or imposed in terms of these by-laws;
 - (f) ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these by-laws, shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R10 000-00, or imprisonment for a period not exceeding one year or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrates Courts Act, 1944 (Act 32 of 1944).
- (2) Any person who, after conviction in terms of these By-laws, persists in the conduct or neglect which caused the offence, is guilty of a continuing offence and liable to a fine in respect of every day that he or she so persists.
- (3) Any expense incurred by the Council as a result of a contravention of these regulations or in the doing of anything which a person was directed to do under these regulations and which he or she failed to do, may be recovered by the council from the person who committed the contravention or who failed to do such thing.

20. Repeal

Any by-laws relating to Street Vendors, Peddlers or Hawkers adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

21. Short title

This By-law shall be called the Control of Street Vendors, Peddlers or Hawkers By-law, 2016.

[PROVINCIAL NOTICE NO. 234 OF 2016]

**METSIMAHOLO LOCAL MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION BY-LAWS
2016/17 FINANCIAL YEAR**

To give effect to the Municipality’s credit control and debt collection policy and/or to regulate its implementation and enforcement in the Metsimaholo Municipal Area (FS024) in terms of section 156(2) of the Constitution of the Republic of South Africa (Act 108 of 1996) and sections 96 and 98 of the Municipal Systems Act (Act 32 of 2000); to provide for the collection of all monies due and payable to the Municipality; and to provide for matters incidental thereto.

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1. DEFINITIONS

In this policy, unless the context indicates otherwise, the word or expression has the means as follows:

- “**Account**” means any account or accounts rendered for municipal services provided;
- “**Actual consumption**” means the measure consumption of any consumer for any given period;
- “**Agreement**” means the contractual relationship between the municipality and a customer whether in writing or not;
- “**Arrears**” means any amount due, owing and payable by a customer in respect of municipal services not paid on the due date;
- “**Arrangement**” means a formal agreement entered into between the Municipality and a customer where specific repayment parameter are agreed to in respect of debt in arrears;
- “**Average consumption**” means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by the customer over the preceding twelve months by twelve;
- “**Authorised Representative**” means a person or agent or instance legally appointed or authorised by the Council to act or to fulfil a duty on its behalf;
- “**Chief Financial Officer**” means the person appointed by Council to administer it finances;
- “**Connection**” means the point at which a customer gains access to municipal services;
- “**Council**” means the municipal Council of Metsimaholo Local Municipality;

“Customer” means any occupier of any property to which the municipality has agreed to supply services or already supplies services to, or failing such occupier, then the owner of the property;

“Defaulter” means the person who owes money to municipality after the due date has expired

“Deposit” means a minimum sum of money specified by Council and payable by the customer to the Municipality prior to occupation of the property or prior to the date on which services to the property are required; or prior to the date on which services are supplied by the municipality;

“Due date” means the date stipulated on the account and determined from time to time as the last date on which the account must be paid;

“Engineer” means the person in charge of civil and/or electrical component of the municipality;

“Equipment” means a building or other structure, pipe, pump, wire, cable, meter engine or any accessories;

“Financial year” means the period starting on 1st July in a year and ending on the 30th June the next year;

“Illegal connection” means a connection to any system through which municipal services are provided that is not authorized or approved by the municipality;

“Indigent customer” means a domestic customer qualifying and registered with the municipality as an indigent in terms of the municipality’s indigent policy;

“Interest” means a charge levied with the same legal priority as service fees and calculated at a rate determined by Council from time to time on arrears monies;

“Meter audits” means an investigation of municipal electricity and water meter supply to verify the correctness of consumption;

“Municipality”

(a) means a municipality as described in the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000)

(b) a geographic area means a municipal area determined in terms of Local Government Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“Municipal Manager” means the person appoint as Municipal Manager in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) and include any person acting in that position or to whom authority was delegated;

“Municipal services” means those services provided by the municipality, such as, inter alia the supply of water, electricity, refuse removal, sewerage treatment, property rates and for which services charges are levied;

“Owner” means:

(a) the person in whose name the property is legally vested;

(b) in the case where the person in whose name the property is vested, is insolvent or deceased, or is disqualified in terms of any legal action, the person who is responsible for administration or control of the property as curator, trustee, executor, legal manager, liquidator or any other legal representative;

(c) in the case where Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;

(d) in relation to:

(i) a portion of land delineated on a sectional plan registered in terms of the Sectional Title Act, 1986 (Act No 95 of 1986), without restricting it to the developer or managing body corporate in respect of the common property;

(ii) a portion as defined in the Sectional Title Act, the person in whose name that portion is registered in terms of a ‘sectional title, including lawfully appointed agent of such person;

(e) any legal entity including but not limited to:

(i) a company registered in terms of the Companies Act, 1973 (Act No 61 of 1973), a trust, a closed corporation registered in terms of the Close Corporation Act, 1984 (Act No 17 of 1984) and a voluntary association;

(ii) any national or provincial government department; and

(iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;

“Property” means any portion of land, of which the boundaries are determined, within the jurisdiction of the municipality;

“Rates” refers to property rates being levied by the municipality for a property that is situated in the municipal area

“Terminated account” refers to:

(i) the final account for services after the customer has vacated the premises, whether or not the customer has given notice to terminate the supply of service or

(ii) the final account for services if the customer has contravened the service provisions of this policy and attendant municipal by-laws

2. APPLICATION OF BY LAWS

(1) These By-laws only apply in respect of amounts of money due and payable to the Council for –

(a) rates;

(b) fees, surcharges on fees in respect of the following municipal services :

(i) The provision of water and the availability thereof;

(ii) refuse removal and disposal;

(iii) sewerage and the availability thereof; and

(iv) electricity consumption and the availability thereof;

(c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and

(d) collection charges;

(2) These By-laws also apply to any municipal service provided through pre-paid meters, in so far as the By-laws may be relevant.

3. CUSTOMER CARE

3.1 Specific Objective

3.1.1 To focus on the client's need in a responsible and pro-active way, to enhance the payment for services and to create a positive and cooperative relationship between the persons responsible for the payment for the services received, and the municipality, and where applicable, any service provider.

3.2 Communication

3.2.1 The municipality will, within its financial and administrative capacity, conduct an annual process of compiling and communicating its budget, which will include targets for credit control.

3.2.2 Council's Customer Care, Credit Control and Debt Collection Policy or relevant extracts thereof, will be available in **English, Afrikaans and Sotho**, and will be made available by general publications and on specific request, and will also be available for perusal at Council's offices.

3.2.3 Council will endeavour to distribute a regular newsletter, which will give prominence to customers' care and debt issues.

3.2.4 Ward Councillors will be required to hold regular ward meetings, at which customer care and debt collection issues will be given prominence.

3.2.5 The media will be encouraged to give prominence to Council's Customer Care, Credit control and Debt Collection policies and will be invited to Council or Committee meetings where these are discussed.

3.3 Metering

3.3.1 The municipality will endeavour, within practical and financial limits, to provide meters to every paying client for all consuming services.

3.3.2 All meters will be read monthly, if at all possible. If the meter is not read monthly the Council will estimate the consumption in terms of Council's operational procedures.

3.3.3 Customers are entitled to request verification of meter readings and accuracy within reason, but may be held liable for the cost thereof if it is found that the readings are correct or the difference is less than ten percent

3.3.4 Customers will be informed of meter replacement.

3.3.5 If a service is metered but it cannot be read due to financial and human resource constraints or circumstances out of the control of the municipality or its authorised agent, the customer is charged for an estimated consumption based on any consecutive twelve months consumption.

3.3.6 The account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustments.

3.4 Accounts and Billing

3.4.1 Customers on the billing system will receive an understandable and accurate bill from the municipality, which bill will consolidate all services costs for that property.

3.4.2 Accounts will be produced in accordance with the meter reading cycle and due dates will be linked to the statement date.

3.4.3 Accounts will be rendered monthly in cycles of approximately 30 days at the address last recorded with the municipality or its authorized agent

3.4.4 It is the customer's responsibility to ensure that the postal address and other contact details are correct and in the case of a change the municipality be notified in writing.

3.4.5 It is the customer's responsibility to ensure timely payment in the event of accounts not received on or before the due date.

3.4.6 Settlement or due dates will be as indicated on the statement.

3.4.7 Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in full and final settlement of such an account.

3.4.8 Where any payment made to the municipality or its authorised representative by negotiable instrument is later dishonoured by a bank, the municipality or its authorised agent:-

- May recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the customer.
- Shall regard such an event as a default on payment
- Disconnect the service to such applicable property

3.4.9 The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request, at a cost determined by Council from time to time

3.5 Payment Facilities and Methods

3.5.1 The municipality will operate and maintain suitable payment facilities will be accessible to all users.

3.5.2 The municipality will, at its discretion, allocate a payment between service debts and a debtor who has overdue debt, may not specify that the payment is for a specific portion of the account.

3.5.3 Any payments received from debtors for service delivery by the Council shall be used to off-set debts to the council in the following order:-

- Arrears;
 - Interest;
 - Instalment – dwelling;
 - Instalment – stand;
-

- Sundries;
 - Additional – deposit;
 - Rates;
 - Penalty on arrear rates and services;
 - Collection charges on arrear rates;
 - Refuse removal;
 - Water;
 - Sewerage;
 - Electricity; and
 - VAT on vat able services which will be the proportionate amount for the applicable services.
- 3.5.4 The municipality may in terms of section 103 of the Municipal Systems Act, with the consent of a customer, approach an employer to secure a debit or stop order arrangement.
- 3.5.5 The customer will acknowledge, in the customer agreements that the use of customer agents in the transmission of payments to the municipality is at the risk of customer – also for the transfer time of the payment
- 3.6 Incentives for Prompt Payment**
- 3.6.1 The Council may, to encourage prompt payment and/or to reward regular payers, consider from time to time incentives for the prompt payment of accounts or payment by debt.
- 3.6.2 Such incentive schemes, if introduced, will be reflected in annual adjustment budgets as additional expenditure.
- 3.7 Enquiries, Appeals and Service Complaints**
- 3.7.1 Within its administration and financial ability the municipality will establish:-
- A centralized complaints/feedback office;
 - A centralized complaints database to enhance co-ordination of complaints, their speedy resolution and effective communication with customers;
 - Appropriate training for officials dealing with the public to enhance communication and service delivery; and
 - A communication mechanism to give Council feedback on service, debt and other issues of concern.
- 3.7.2 If a customer is convinced that his/her account is inaccurate, he/she can lodge in writing a query with the municipality for investigation of this account, and where necessary the relevant alterations.
- 3.7.3 In the interim the debtor must pay the average of the last three months accounts where such history of the account is available. Where no such history is available, the debtor is to pay an estimate provided by the municipality before payment due date until the matter is resolved.
- 3.7.4 The relevant department will investigate and inform the debtor within the period specified herein, as determined by the Municipal Manager from time to time.
- 3.7.5 Failure to make such agreed interim payment or payments will result in the customer forming part of the normal credit control procedures.
- 3.7.6 A customer may appeal against the finding of the municipality or its authorised agent.
- 3.7.7 An appeal and request must be made and lodged in writing with the municipality within 21 (twenty-one) days after the customer became aware of the finding and must:-
- Set out the reasons for the appeal
 - Be accompanied by any security determined for the testing of a measuring device, if applicable.
- 3.8 Customer Assistance Programmes**
- 3.8.1 Water Leakages
- The customer has the responsibility to control and monitor his/her water consumption.
 - If the leakage is on the customer's side of the meter, the customer will be responsible for the payment of all water supplied to the property.
- 3.8.2 Rate Rebates
- Properties used exclusively for residential purposes may qualify for a rebated rate determined annually by Council.
 - A rate rebate may be granted according to certain qualifying criteria to social pensioners or the receiver of a State disability grant and/or any category of customer, as determined by Council from time to time.
- 3.9 Arrangements**
- 3.9.1 Customers with arrears and who cannot pay his/her account must:-
- Agree to the conversion to a prepayment electricity meter (if possible)
 - Sign an acknowledgement of debt
 - Provide a garnishee order/emolument order/ stop order (if he or she is in employment)
 - Acknowledge that as an incentive measure no interest will be charged on the arrear amount as from the date of the agreement
 - Sign an acknowledgement that, if the arrangements being negotiated are later defaulted on, that no further arrangements will be possible and that disconnection of water and electricity will follow immediately, as will legal proceedings
 - Acknowledge liability of all costs incurred.
- 3.9.2 Businesses, Schools and Industries are allowed to make arrangements up to a maximum period of 12 months.
-

- 3.9.3 Municipal employees and Councillors are allowed to make arrangements in line with credit policy arrangements and it be deducted from their salary/ allowance.
- 3.9.4 Council reserves the right to raise the deposit requirement of debtors who default on arrangements.

3.10 Rates by Instalments

- 3.10.1 Customers may elect to pay the property rates account monthly, over a maximum period of 12 months at no interest cost, on the condition that there is no rates outstanding in respect of a previous period and that the rates are paid in full prior to the next cycle.
- 3.10.2 Any arrangement for monthly rate instalments will be cancelled by the Municipality and all rates will be payable in full with immediate effect should any three instalments become overdue.
- 3.10.3 Owners of farm property may pay their assessment rates in one payment by not later than 31st October; interest will be affected thereafter if no payment is received.

3.11 Indigent Subsidy

- 3.11.1 The purpose of the indigent subsidy is to provide funding for a basic level of services to qualifying household consumers with a total gross income of two times the State old age pension, and according to further specified criteria as determined by Council from time to time
- 3.11.2 The source of funding of the indigence subsidy is that portion of the equitable share contribution to the municipality made from the national governments' fascs and as provided for in the budget. As such, the subsidy can only be credited to the qualifying customers' accounts until the amount received by the Municipality from National Government for this purpose has been exhausted, whereupon no further credits will be made, or the level of the credits reduced, until further national funds are received.
- 3.11.3 Subsidized services may include electricity, water, sewerage, refuse removal and assessment rates, rental and any consumption service charges.
- 3.11.4 If a consumer's consumption or use of the municipal service is less than the subsidised service, the unused portion may not be accrued by the customer and will not entitle the customer to cash or a rebate in respect of the unused portion.
- 3.11.5 If a customer's consumption or use of a municipal service is in excess of the subsidised service, the customer will be obliged to pay for such excess consumption at the applicable charges.
- 3.11.6 All consumers who qualify for an equitable share subsidy may be placed on restricted service levels in order to limit further escalation of debt.
- 3.11.7 Where applicable, these consumers may be exonerated from their arrear debt of portion thereof.
- 3.11.8 Where a qualifying customer's account is paid in full at the date of application, or maintains a paid up account after receiving the subsidy, the restriction on service levels may be waived on request by such a customer.
- 3.11.9 An indigent customer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances have changed to the extent that he/she no longer meet the criteria.
- 3.11.10 An indigent customer may at any time request de-registration
- 3.11.11 A register of indigent customers will be maintained and may be made available to the general public.

3.12 Additional Subsidy Categories

- 3.12.1 Council may provide, free of charge to a customer, certain basic levels of water and electricity, as determined from time to time
- 3.12.2 Council may provide grants in lieu of rates to certain categories of owners of domestic properties to alleviate poverty
- 3.12.3 Rebates may be granted to sporting or any other determined bodies for consumption but tariffs must at least cover the cost of service.
- 3.12.4 Rebates may be granted to large customers to attract business to Metsimaholo that would benefit the community of Metsimaholo but tariffs must at least cover the cost of the service.

3.13 Customers Categories

- 3.13.1 Customers will be categorised according to specific classifications based on inter alia the type of entity and applicable tariffs and risk levels. Processes for credit control, debt collection and customer care may differ from category, as deemed appropriate from time to time by the Council.

3.14 Priority Customer Management

- 3.14.1 Certain customers may be classified as priority customers based on criteria determined by the Council from time to time, such as the number of properties owned or volume of consumption

4. CREDIT CONTROL

4.1 Service Application and Agreements

- 4.1.1 All customers (owners ONLY) of services will be required to sign an agreement governing the supply and cost of municipal services. Prior to signing these agreements, customers will be entitled to receive the policy document of the Council on request.
- 4.1.2 On the signing of the agreement, customers will receive a copy of the agreement for their records.
- 4.1.3 Council reserves the right to refuse any application for services if any amounts are owed on the account (site/erf) by the owner.
- 4.1.4 When applying for services, personal details as required by Council from time to time must be produced. Failure thereof will result in Council reserving its right refuse such application.
- 4.1.5 Customers are responsible for costs of collection, interest and penalties in the event of delayed and/or non-payment.
- 4.1.6 Existing customers of services may be required to sign new agreements as determined by the Municipal Manager from time to time

4.1.7 If at the commencement of these policies or at any other time, municipal services are provided and received and no written agreement exists in respect of such service it shall be deemed that an agreement in terms of paragraph (8.2.1) exist.

4.2 Right of Access to Premises

4.2.1 The owner and or occupier of property is to allow an authorized representative of the municipality access at all reasonable hours to the property in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict, or reconnect the provision of any municipal service.

4.2.2 The owner is responsible for the cost of relocating a meter if satisfactory access is not possible

4.2.3 If a person fail to comply, the municipality or its authorised representative may:-

- By written notice require such a person to restore access at his/her own expense within a specified period.
- If it is the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

4.3 Enforcement Mechanisms

4.3.1 Interest will be raised as a charge on all accounts not paid by the due date, at a rate determined by Council from time to time, in accordance with applicable legislation.

4.3.2 The municipality shall have the right to restrict or discontinue the supply of services or to implement any other debt collection action necessary due to late or non-payment of accounts, relating to any consumer, owner or property.

4.4 Liability for Payment

4.4.1 The owner will be the debtor of last resort

4.4.2 The owner will remain liable for payment of the Municipal account up to and including the date which terminates the Service Agreement as indicate in the Notice of Termination of Services,

4.4.3 An owner who fails to enter into the Service Agreement, will despite such failure, be liable for the payment of the Municipal account.

4.4.4 Nothing contained in this policy will prohibit the Council to collect payment of any amount from the owner or any other person, in terms of applicable legislation

4.4.5 The Chief Financial Officer may consolidate separate municipal accounts, or portions thereof, of persons liable for payment to the council

4.4.6 A copy of the identity document, payslip and Electricity Compliance Form, must be submitted with the Service Agreement.

4.5 Theft and Fraud

4.5.1 Any person (natural or juristic) found to be illegally connected or reconnected to municipal services, tampering with meters, the reticulation network or any other supply equipment or committing any unauthorised act associated with the supply of municipal services, as well as theft of and damage to Council property, may be prosecuted and/or liable for penalties as determined from time to time.

4.5.2 Council will immediately terminate the supply of services to a customer should such conduct as outlined above, be detected.

4.5.3 The total bill owing, including penalties, assessment of unauthorised consumption and discontinuation and reconnection fees, and increased deposits as determined by Council if applicable, will be due and payable before any reconnection can be sanctioned.

4.5.4 Council may maintain monitoring systems in order to identify customers who are undertaking such illegal actions.

4.5.5 Council reserves the right to lay criminal charges and/or to take any other legal action against both vandals and thieves.

4.5.6 Any customer failing to provide information or providing false information to the municipality may face immediate disconnection and/or legal action.

4.6 Customer Screening and Securities

4.6.1 All applicants for municipal services may be checked for credit-worthiness including checking information from banks, credit bureaus, other local authorities, trade creditors and employers.

4.6.2 Deposits either in cash or any other security acceptable to the municipality may be required, and may vary according to the risk as determined by the Municipality.

4.6.3 A minimum deposit of the equivalent of one month's average consumption will be required.

4.6.4 Deposits can be increased by the municipality at any time and at the sole discretion of the municipality to a maximum of three months average consumption.

4.6.5 Deposits can vary according to the credit-worthiness or legal category of the applicant.

4.6.6 The municipality will not pay any interest on deposit's

4.6.7 On the termination of the agreement the amount of the deposit, less any outstanding amount due to the municipality, will be refunded to the consumer.

4.7 Persons and Business who Tender to the Municipality

4.7.1 The Procurement Policy and Tender Conditions of the Municipality will include the following:-

- When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tendered obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tendered and/or its director, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears
-

- No tender will be allocated to a person/contractor until a suitable arrangement for the repayment of arrears, has been made. No further debt may accrue during contract period.
 - A condition allowing the municipality to deduct any moneys owing to the municipality from contract payments.
- 4.7.2 The municipality reserves the right not to consider and or disapprove any applications for subdivisions, consolidations and development of land if the owner, and partner or director (s) of such an application owes the municipality for rates and / or services.

4.8 Cost of Collection

- 4.8.1 All costs of legal processes, including interest, penalties, service discontinuation costs and legal costs associated with customer care or credit control, where ever applicable, are for the account of the debtor and should reflect at least the cost of the particular action.

4.9 The Pre-payment Meter System

- 4.9.1 The municipality may use its pre-payment system to:-
- Link the provision of electricity by the Municipality to a “pre-payment” system comprising, first, a pre-payment of electricity kWh and:
 - A payment in respect of arrears of accrued municipal taxes and other municipal levies, tariffs and duties in respect of services such as water, refuse removal, sanitation and sewage.

5. DEBT COLLECTION

5.1 Personal Contact

- 5.1.1 Telephonic contact, agents calling on clients
- Council will endeavour, within the constraints of affordability, to make personal or telephonic contact with all arrear debtors to encourage their payment, and to inform them of their arrears state, their right (if any) to conclude arrangements or to indigence subsidies, other related matters and will provide information on how and where to access such arrangements or subsidies.
 - Such contact is not a right for debtors to enjoy and disconnection of services and other collection proceedings may continue in the absence of such contact for whatever session.

5.2 Interruption of Service

- 5.2.1 Customers who are in arrears with their municipal account and who have not made arrangements with the Council will have their supply of electricity and water, and other municipal services, suspended, disconnected or reduced.
- 5.2.2 The disconnection of services may happen within 14 days of the date of the warning notice letter.
- 5.2.3 Council reserves the right to deny the sale of electricity or restrict the sale of water to customers who are in arrears with their rates or their municipal charges
- 5.2.4 Council reserves the right to levy an administrative fee if the process to disconnect services take legal action has been completed after the due date and the customer only pays the arrear amount before the action has been executed.
- 5.2.5 Upon the liquidation of arrears, or the conclusion of acceptable arrangements for term payment, the service will be reconnected as soon as conveniently possible.
- 5.2.6 The cost of the restriction or disconnection, and the reconnection, will be determined by tariffs approved by Council, and will be payable by the customer.
- 5.2.7 The deposit of any defaulter will be adjusted to bring into line relevant policies.

5.3 Legal Process/Use of Attorneys/Use of Credit Bureaus

- 5.3.1 Council may, when a debtor is in arrears, commence legal process against that debtor, which process could involve final demands, summonses, court trails, judgements, garnishee orders and/or sales in execution of property.
- 5.3.2 Council will exercise strict control over this process, to ensure accuracy and legality within it, and will require regular reports on progress from outside parties, be they attorneys or any other collection agents appointed by Council.
- 5.3.3 Council will establish procedures and codes of conduct with these outside parties.
- 5.3.4 Garnishee orders, in the case of employed debtors, are preferred to sales in execution, but both are part of Council's system of debt collection procedures.
- 5.3.5 All steps in the customer care and credit control procedure will be recorded for Council's records and for the information of the debtor.
- 5.3.6 All costs of this process will be for the account of the debtor.
- 5.3.7 Individual debtor accounts are protected and are not the subject of public information. However Council may release debtor information to credit bureaus. This release will be in writing or by electronic means.
- 5.3.8 Council may consider the cost effectiveness of the legal process, and will receive reports on relevant matters, including cost effectiveness.
- 5.3.9 Council may consider the use of agents as service providers and innovative debt collection methods and products. Cost effectiveness, the willingness of agents to work under appropriate codes of conduct and the success of such agents and products will be part of the agreement council might include with such agents or service providers; and will be closely monitored.
- 5.3.10 Customers will be informed of the powers and duties of such agents or service providers and their responsibilities including their responsibilities to observe agreed codes of conduct.
- 5.3.11 Any agreement concluded with an agent, service provider or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will constitute a breach of the contract

5.4 Rate Clearance

5.4.1 On the sale of any property in the municipal jurisdiction, Council will withhold the transfer until rates and service charges are paid by withholding a rates clearance certificate as contemplated in section 118 of the Systems Act.

5.5 Abandonment of Claims

5.5.1 The Municipal Manager must ensure that all avenues are utilised to collect the municipality's debt.

5.5.2 There are certain circumstances that allow for the valid termination of debt collection procedures as contemplated in section 109(2) of the Systems Act such as:-

- The insolvency of the debtor, whose estate has insufficient funds
- A balance being too small to recover, for economic reasons considering the cost of recovery.

5.5.3 Where Council deems that a customer or groups of customers are unable to pay for services rendered

5.5.4 The municipality will maintain audit trails in such an instance, and document the reasons for the abandonment of the action or claim in respect of the debt.

5.6 Writing off Bad Debt

Bad debts will be written off in terms of the Bad debts write off policy as approved by council.

6. CONFLICT OF BY LAWS

If there is any conflict between a provision in these By-laws and a provision of any other by- law, the provision in these By-laws must prevail.

7. SHORT TITLE AND COMMENCEMENT

This By-law is called the Metsimaholo Local Municipality: Credit Control and Debt Collection By-law and shall come into effect from the 01 July 2016.

[PROVINCIAL NOTICE NO. 235 OF 2016]

**METSIMAHOLO LOCAL MUNICIPALITY
RATES BY-LAWS TO GIVE EFFECT TO PROPERTY RATES POLICY
2016/2017 FINANCIAL YEAR**

RATES BY-LAWS

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PREAMBLE

WHEREAS Section 229(1) of the Constitution of the Republic of South Africa authorises a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality;

AND WHEREAS section 3 of the Local Government: Municipal Property Rates Act, 2004 (No 6 of 2004), a municipality must adopt a policy consistent with the Act on the levying of rates on rateable property in the municipality;

AND WHEREAS section 6 of the Local Government: Municipal Property Rates Act, 2004 (No 6 of 2004) requires a municipality to adopt by-laws to give effect to the implementation of its rates policy: the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for payment of rates;

AND WHEREAS section 13 of the Local Government: Municipal Systems Act, 2000 read with section 162 of the Constitution requires a municipality to promulgate municipal by-laws by publishing them in the gazette of the relevant province.

NOW therefore be it enacted by the Council of Metsimaholo Local Municipality, as follows:

1. DEFINITIONS

In this by-laws, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) shall bear the same meaning in these by-laws and unless the context indicates otherwise-

“Municipality” means the municipal council for the municipal jurisdiction area of Metsimaholo Local Municipality;

“Credit Control and Debt Collection Policy” means the Municipalities Credit Control and Debt Collection Policy as required by sections 96(b) and 97 of the Local Government: Municipal Systems Act, 32 of 2000;

“Rate” or “rates” means a municipal rate as envisaged in section 229 of the Constitution of the Republic of South Africa.

“Rates Policy” means the rates policy adopted by the Council of the Municipality from time to time, contemplated in chapter 2 of the Property Rates Act and which is consistent with the Local Government: Municipal Property Rates Act, Act no. 6 of 2004 as amended.

“Property Rates Act” means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004);

2. OBJECTIVE

The objective of this by-law is to give effect to the implementation of the Rates Policy as contemplated in section 6 of the Property Rates Act.

3. ADOPTION AND IMPLEMENTATION OF PROPERTY RATES POLICY

3.1 The municipality shall adopt and implement a rates policy consistent with the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) on the levying of rates on rateable property in the municipality and

3.2 The municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

4. CONTENTS OF PROPERTY RATES POLICY

The municipality's property rates policy shall inter alia:

4.1 Apply to all rates levied by the municipality pursuant to the adoption of the municipality's annual budget;

4.2 Comply with the requirements for:-

(a) the adoption and contents of a property rates policy specified in section 3 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004);

(b) the process of community participation specified in section 4 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004);

(c) the annual review of a rates policy specified in section 5 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004);

4.3 Provided for principles, criteria and implementation measures consistent with the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) for the levying of rates which the municipality may adopt and

4.4 Provide for enforcement mechanisms that are consistent with the Property Rates Act and Local Government: Municipal Systems Act, 2000 as well as enforcement mechanisms contained in the Credit Control and Debt Collection Policy.

5. ENFORCEMENT OF PROPERTY RATES POLICY

The municipality's property rates policy shall be enforced through the Credit Control and Debt Collection Policy and any further enforcement mechanisms stipulated in the municipality's Property Rates Policy.

6. SHORT TITLE AND COMMENCEMENT

This By-Law is called the Rates By-law, and takes effect on 1 July 2016.

PROVINCIAL GAZETTE
(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied.

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NUMBERING OF PROVINCIAL GAZETTE

You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.

Printed and published by the Free State Provincial Government

PROVINSIALE KOERANT
(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie.

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NOMMERING VAN PROVINSIALE KOERANT

U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnummers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.

Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering