

CENTRAL KAROO DISTRICT MUNICIPALITY

MUNICIPAL HEALTH BY-LAW



PK 6631 OF 29 May 2009

Private Bag X 560
Beaufort West
6970

Tel.: 023 - 449 1000
Fax : 023 – 415 1253
Email: manager@skdm.co.za

CENTRAL KAROO DISTRICT MUNICIPALITY

MUNICIPAL HEALTH BY-LAW

Under the provisions of Section 156 of the Constitution of the Republic of South Africa, 1996 the Central Karoo District Municipality, enacts as follows :-

TABLE OF CONTENTS

1. Definitions
2. Principles and objectives

CHAPTER 1

HEALTH NUISANCES

3. Health nuisance
4. Prohibition on creation, existence or occurrence of Health nuisance
5. Duty to eliminate or reduce Health nuisance

CHAPTER 2

KEEPING OF ANIMALS

6. Application of Chapter
7. Keeping and slaughtering of animals
8. Carcasses
9. Distances

CHAPTER 3

ANIMAL ESTABLISHMENTS

Part 1 Dog kennels and Catteries

10. Requirements relating to premises

Part 2: Pet shops and parlours

11. Requirements relating to premises

CHAPTER 4

ACCOMMODATION ESTABLISHMENTS

12. Application of Chapter
13. Preparation and serving of food
14. Premises

CHAPTER 5

CHILD CARE FACILITIES

15. Certificate of acceptability
16. Structural and other requirements

CHAPTER 6

SWIMMING POOLS AND WATER RELATED RECREATIONAL FACILITIES

17. Duties of swimming pool- and water related recreational facility managers
18. Water supply
19. Safety of water

CHAPTER 7

BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS OR TATOOISTS

20. Certificate of Acceptability
21. Health requirements
22. Requirements for premises

CHAPTER 8

WASTE MANAGEMENT

Part 1: General provisions regarding storage, recovery and disposal of waste

23. Storage, recovery and disposal of waste

Part 2: Hazardous Waste

24. Applicable legislation
25. Storage of hazardous waste

Part 3: Health care waste

26. Scope of application
27. Duties of generators transporters and disposers of health care waste
28. Storage of health care waste
29. Transport of health care waste
30. Disposal facility and incineration

CHAPTER 9

WATER AND SANITATION

- 31. Applicable legislation and enforcement
- 32. Duties and prohibitions

CHAPTER 10

DISPOSAL OF CORPSES AND DISTURBANCE OF MORTAL REMAINS

- 33. Disposal of corpses
- 34. Disturbance of mortal remains

CHAPTER 11

ENFORCEMENT

- 35. Environmental health practitioner
- 36. Notice of compliance and representations
- 37. Prohibition notice
- 38. Withdrawal of prohibition notice
- 39. Municipal remedial work
- 40. Costs
- 41. Norms, Standards and Guidelines

CHAPTER 12

MISCELLANEOUS PROVISIONS

- 42. Presumptions
- 43. Authentication and service of notices and other documents
- 44. Appeal
- 45. Penalties
- 46. Co-operation between municipalities and application
- 47. Liaison forums in community
- 48. Exemptions
- 49. Repeal of by-laws
- 50. Short title and commencement

1. Definitions

In this by-law unless the context otherwise indicates: -

"Accommodation establishment" means a place in which accommodation is provided for gain, with or without meals;

"animal" means any equine, bovine, sheep, goat, pig, poultry, camel, dog, cat, or other domestic animal or any wild animal or reptile which is in captivity or under the control of a person;

"Animal disease" means an impairment or disturbance of the normal function of any organ or the body of any animal that is caused by an organism or substance;

"Animal waste" means the faeces, manure, droppings, shed hair, feathers, bones, horns, blood, skins and entrails or any other waste of an animal, reptile, bird or poultry and any marine or aquatic organism.

"approved" means approved by the municipality, with regard to the environmental health requirements of the particular case;

"Aquatic fauna" means any aquatic living organism from aquatic resources, including any aquatic plant, whether piscine or not, and any mollusc, crustacean, reptile, aquatic mammal and bird and include their eggs, larvae and all juvenile stages;

"Barber, hairdresser, beautician, body piercer or tattooist" means a person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, which business comprises any one or more of the following or similar services or activities, or a combination thereof, which are applied to the male or female human body:

- (a) cutting, shaving, singeing, shaping, shampooing, cleansing, conditioning, treating, chemical reformation (such as but not limited to permanent waving) relaxing, straightening and colouring (such as but not limited to tinting, dyeing, colouring, whether by permanent or temporary or semi-permanent means, and including the use of colour rinses, shampoos, gels or mousses, and lightening by means of tints, bleaches, highlights or high lifting tints or toners) of the hair on the human head;
- (b) other than by a process contemplated in paragraph (a), removing hair by means of, but not limited to, waxing, chemical compounds (such as but not limited to depilatories), electrical or mechanical means, whether or not heat or an appliance or apparatus is used in any of these activities;
- (c) treating hair by means of a trichological process or method;
- (d) adding to hair of natural or artificial hair by means of, but not limited to an extension, board work, or a wig;
- (e) shaping, shaving, plucking, treating or tinting an eyebrow or eyelashes or

applying an artificial eyebrow or eyelashes;

- (f) skin care of the face, including but not limited to the application of cosmetics;
- (g) applying nail technology, such as but not limited to manicuring, pedicuring, or applying false nails or extensions;
- (h) piercing of the skin ("body piercing") or tattooing;
- (i) massaging;
- (j) bronzing such as by means of, but not limited to, ultraviolet radiation; and
- (k) contouring, such as but not limited to, slimming.

"Biodegradable industrial wastewater" means wastewater that contains predominantly organic waste arising from industrial activities and premises including-

- (a) milk processing;
- (b) manufacture of fruit and vegetable products;
- (c) sugar mills;
- (d) manufacture and bottling of soft drinks;
- (e) water bottling;
- (f) production of alcohol and alcoholic beverages in breweries, wineries or malt houses;
- (g) manufacture of animal feed from plant or animal products;
- (h) manufacture of gelatine and glue from hides, skin and bones;
- (i) abattoirs;
- (j) fish processing; and
- (k) feedlots;

"bird" means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird kept in captivity;

"Building, structure or enclosure " means a building, structure or enclosure such as, but not limited to, a stable, shed, dove-cote, kennel, pen, sty, camp, kraal, cow-shed, lean-to, room, tent, vehicle, stream, dam, pool, pan, drain, or ditch (open, covered, or enclosed) erected or constructed in or upon land or premises and which is used in connection with the keeping of an animal by an owner of an animal or

owner or user of land;

“Category B municipality” means a municipality as contemplated in section 155(1)(b) of the Constitution;

"cattery" means an accommodation establishment which, for gain, caters for the boarding of cats;

"cemetery" means a land or part of a land within the municipal area set aside as a cemetery;

"Child care facility or institution" means any undertaking or institution, whether for profit or otherwise, involving the custody, care or tuition or any combination of these functions, during the whole or part of the day on all or any of the days of the week of children, or the building or the premises maintained or used for the purpose of conducting such undertaking or institution thereon as the case may be;

"crematorium" means a crematorium as defined in section 1 of the Crematorium Ordinance, 1965 (Ordinance No 18 of 1965) and includes the buildings in which a ceremony is conducted and the cremation carried out;

"Council" means the Central Karoo District Municipal Council;

“Communicable disease” means a disease resulting from an infection due to pathogenic or toxic agents generated by the infection, following the direct or indirect transmission of the agents from the source to the host;

“Domestic wastewater" means wastewater arising from domestic and commercial activities and premises, and may contain any form of sewage;

"dog kennel" means an accommodation establishment which, for gain, caters for the accommodation of dogs;

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

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

"Environmental health practitioner" means a person appointed under section 35;

"Hazardous waste" means waste that has the potential, even in low concentrations, to have an adverse effect on the environment and environmental health because of its

inherent toxicological, chemical or physical characteristics;

“Health care waste” means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, traditional surgeon and veterinarian or any other place where health care waste are generated and which are infectious or potentially infectious, and includes –

- (a) microbial wastes including wastes including cultures and stocks of infectious wastes and associated biologicals that can cause disease in humans;
- (b) human blood and blood products, including serum, plasma and other blood components;
- (c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals;
- (e) isolation wastes associated with animals or human beings known to be infected with highly communicable diseases; and
- (f) contaminated and uncontaminated sharps, including clinical items which can cause a cut or puncture or injection, such as needles, syringes, blades and microscope slides;
- (g) used medical equipment and other medical material which is capable or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, such as used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy- and other catheter-bags, gloves, drip bags, administration dines and tongue depressors.
- (h) pharmaceutical products which has become outdated or contaminated or have been stored improperly or are no longer required such as human and animal vaccines, medicine and drugs;
- (i) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source.

"Health nuisance" means an occurrence specified in section 3(1)&(2);

"irrigation" means the application of wastewater to recreational grounds and for the purpose of crop production and the cultivation of pasture;

"municipality" means the Central Karoo District Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 492 dated 22 September 2000 and includes any political structure, political office bearer,

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

"occupier" means any person who occupies any premises or part thereof without regard to the title under which he or she occupies, and includes –

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of those premises;

"owner", in relation to –

- (a) animals or things, conveyances and other movable property, means the person in whom ownership is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Animal Identification Act, 2002 (Act No 6 of 2002), or of which the ownership cannot readily be established, the user of the land on which such game or animals are present is deemed to be the owner; and
- (b) land –
 - (i) means the person in whose name that land is registered;
 - (ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;
 - (iii) that is subject to a usufruct, means the usufructuary;
 - (iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorised by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator

concerned; and

- (v) a category B municipality which is in control of land by virtue of the powers and functions allocated to it in terms of Schedules 4B and 5B of the Constitution;

"person" means a natural and legal person, including but not limited to an association of persons, a partnership, and a company;

"Pet parlour" means an establishment where pets are groomed;

"Pet shop" means an establishment where pets are kept for trading purposes;

"poultry" means a fowl such as a chicken, turkey, goose, duck, muscovy-duck, bantam-fowl and guinea fowl, whether domesticated or not, including the young of such poultry;

"premises" means –

- (a) land or a portion of land, whether or not a building or structure has been constructed or erected on the land or portion of land; or
- (b) a building or structure and the land on which it is situated;

"proprietor" means the person who owns or operates an accommodation establishment;

"publish" in respect of the provisions of section 45 means –

- (a) to publish a notice in the Provincial Gazette and a local newspaper; and
- (b) to display the notice so published on the notice boards of the municipality;

"Responsible authority" means the authority or municipality responsible for the execution of waste disposal functions within the area of jurisdiction of Central Karoo District Municipality;

"salon" means a place where any one or more of the services or activities contemplated in the definition of "barber, hairdresser, beautician, body piercer or tattooist" are normally carried on;

"Swimming pool" means a swimming pool that is accessible to the public and includes swimming pools at schools or other tertiary institutions and other water related recreational facilities accessible to the public;

"user", in relation to land, means –

- (a) any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or

occupier, irrespective of whether or not he or she resides thereon; and

- (b) any other person who is generally recognised as having a right of tenure on the land concerned;

“**waste**” means any matter or waste material arising from the use of any land or premises, excluding hazardous waste and health care waste.

“**wastewater**” means water containing waste, or water that has been in contact with waste material and may include biodegradable industrial wastewater and domestic wastewater.

“**Water resource**” means a source as defined in section 1 of the National Water Act, Act No. 36 of 1998;

2. Principles and objectives

The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, and the principles that underlie the National Health Act, 2003 (Act 61 of 2003) and the National Environmental Management Act, 1998 (Act 107 of 1998), adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Central Karoo District area by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its municipal health obligations.

CHAPTER 1

HEALTH NUISANCE

3. Health nuisance

- (1) A Health nuisance exists or occurs if any of the following occurs on any land or premises:
- (a) a water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be injurious or dangerous to health;
 - (b) an accumulation of waste or other matter which is injurious or dangerous to health occurs;
 - (c) where waste water used for the purposes of irrigation does not comply to relevant legislation, standards and guidelines;
 - (d) wastewater which is discharged onto land and into a water source, through a pipe, canal, sewer or other conduit or any other means that does not comply to relevant legislation, standards and guidelines;
 - (e) a building, structure or enclosure is –

- (i) so constructed, situated, used or kept as to be injurious or dangerous to health;
 - (ii) kept or permitted to remain in a state as to be injurious or dangerous to health; or
 - (iii) infested with pests or vermin or in a state that is conducive to the breeding of pests or vermin;
- (f) conditions exist that are conducive and contributively to the spread of a contagious and communicable disease;
 - (g) organic matter or animal waste are being used or kept in a manner that attracts vermin or pests such as, but not limited to rats, mice, flies and mosquitoes;
 - (h) unhygienic conditions that may be injurious or dangerous to health are present on any part of the land or premises;
 - (i) a building, structure or enclosure is erected without first removing or decontaminating in an approved manner, any faecal, animal or vegetable waste disposed of on the land or premises; or
 - (j) a building or structure is demolished without first eradicating all vermin;
 - (k) a dwelling or any other premises is occupied for which no proper and sufficient supply of pure water is available as prescribed in terms of the Water Services Act;
 - (l) a dwelling or building is occupied for which no proper toilet facilities as required in terms of the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977) are available; or
 - (m) a dwelling or building is occupied which is not properly ventilated in accordance with the National Building Regulations and Building Standards Act 1977 (Act 103 of 1977).
 - (n) a carcass or the remains of an animal, poultry, bird or marine- or aquatic fauna, or any animal waste remains unburied or is not suitably disposed of after a period of more than 24 hours after death.
 - (o) that is not ventilated so as to destroy or render harmless as far as practicable any gases, vapours, dust or other impurities generated which may be dangerous to human health;
 - (p) that is so overcrowded, badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; or cause or give rise to effluvia which are injurious or dangerous to health.

- (2) A health nuisance exists if-
- (a) an obnoxious smell, pests, vermin, vector, from whatever source emanate from land or premises;
 - (b) any other activity, condition or thing declared to be a health nuisance under any law exists or occurs on or emanates from land or premises.

4. Prohibition on creation, existence or occurrence of a health nuisance

- (1) No person may, in any area under the jurisdiction of the municipality –
- (a) create a health nuisance;
 - (b) perform any act which may cause a health nuisance;
 - (c) organise, allow or permit an activity, event or function in or on land or premises, or use, cause, allow or permit to be used land or premises for a purpose which by its nature or otherwise or by reason of its consequences creates or is likely to create a municipal health nuisance;
 - (d) unless he or she is authorised or permitted by law to do so or does so with the written permission of the municipality and in accordance with any conditions imposed by the municipality –
 - (i) in a public place activate, handle or use any material, object or thing which is likely to cause a Health nuisance;
 - (ii) introduce into or handle in a public place any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates a Health nuisance;
 - (e) carry, convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any health nuisance;
 - (f) by an action directly or indirectly or by negligence allow that a health nuisance be created or continued;

- (2) A person who contravenes a provision of subsections (1) commits an offence.

5. Duty to eliminate or reduce a Health Nuisance

- (1) (a) The owner, occupier or user of land or premises must –

- (i) ensure that a Health nuisance does not exist or occur on his or her land or premises; and
 - (ii) within 24 hours of becoming aware of the existence of a health nuisance on the land or premises, eliminate the health nuisance, or if he or she is unable to eliminate the health nuisance –
 - (aa) take steps to the satisfaction of the municipality to reduce the risk to municipal health; and
 - (bb) report the existence of the health nuisance to the municipality.
- (b) For the purposes of subsection (1)(a), the owner, occupier or user of land or premises must, for the purpose of eliminating or reducing the quantity of –
- (i) flies, use fly-traps or any other approved method;
 - (ii) mosquitoes –
 - (aa) drain accumulated water at least once every seven days; or
 - (bb) cover accumulated water with oil;
 - (cc) in the case of wells, provide a mosquito-proof cover and a pump;
 - (dd) fit tanks, barrels and similar containers in which mosquitoes may breed with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them; and
 - (ee) regularly clean blocked or sagging gutters and down pipes so that stagnant water cannot accumulate in them; and
 - (iii) vermin, use mouse traps or vermin poison.
- (2) The owner, occupier or user of land or premises must ensure that every well, hole, pit, reservoir, pond or excavation thereon is not filled in a way, or with any material, that may cause an adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a Health nuisance.
- (3) The owner, occupier or user of land or premises must cause all waste to be placed in refuse receptacles provided by the owner or by the responsible authority to be disposed of in a manner contemplated in section 23.

- (4) The owner, occupier or user of land or premises who contravenes a provision of subsection (1) or (2) or the occupier who contravenes a provision of subsection (3) commits an offence.

CHAPTER 2

KEEPING OF ANIMALS

6. Application of Chapter

- (1) This Chapter applies to any owner or person in charge of an animal, bird, poultry, fish or crustaceans or who keeps an animal, bird, poultry, fish or crustaceans for whatever purpose, on land or premises of which he or she is the owner, occupier or user within the jurisdiction of the municipality.
- (2) A person who keeps an animal, bird, poultry, fish or crustaceans in terms of an approved land use, or on premises or land zoned for agricultural purposes, is not exempt from the provisions of this by-law or other legislation with regard to the inception or bringing about of a health nuisance.

7. Keeping and slaughtering of animals

- (1) The owner of an animal, bird, poultry, fish or crustaceans or the owner, occupier or user of land or premises may not keep or slaughter such animal, bird, poultry, fish or crustaceans in or on a building, structure or enclosure or any premises in a manner that constitutes a health nuisance.
- (2) A person who contravenes sub-sections (1) commits an offence.

8. Carcasses

- (1) The owner of an animal, bird, poultry fish or crustaceans or the owner, occupier or user of land or premises must within 24 hours, in accordance with subsection (4), dispose of the carcass of an animal, bird, poultry, fish or crustaceans that has died on such premises or land.
- (2) The owner, occupier or user of land or premises must within 24 hours, in accordance with subsection (4), dispose of the carcass or remains of aquatic or marine fauna that has died or washed up on such premises or land.
- (3) Should an owner of an animal or owner, occupier or user of land or premises fail to dispose of a carcass, the environmental health practitioner may arrange for the disposal of the carcass and may recover the cost involved from the owner of the animal, bird, poultry, fish or crustaceans or the owner or user of the land or premises.
- (4) A person contemplated in subsection (1 & 2) must dispose of a carcass in one of the following manners:

- (a) He or she must take steps to have the carcass removed by a registered animal organization or by a person authorized to do so in terms of the responsible authority's waste regulations;
 - (b) if the premises are suitable, he or she must bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause a Health nuisance;
 - (c) if the animal died of a disease, he or she must deal with the carcass in accordance with paragraph (a).
- (5) No person may carry or convey through or along a street the carcass of an animal, bird, poultry, fish, crustaceans or animal waste or offal in such a manner that it creates or may create a Health nuisance.
- (6) This section does not apply in the instance where an animal, bird, poultry, fish or crustaceans is slaughtered for the purpose of human or animal consumption.
- (7) A person who contravenes a provision of subsections (1) to (5) commits an offence.

9. Distances

- (1) No animal, bird or poultry or fish may be kept on any land or premises under such conditions and in such close proximity to any building or facility that in the opinion of the municipality the conditions may be injurious or dangerous to the health of the occupants of neighbouring buildings or facilities.
- (2) A person who contravenes a provision of sub section (1) commits an offence.

CHAPTER 3

ANIMAL ESTABLISHMENTS

Part 1

Dog kennels and Catteries

10. Requirements relating to premises

- (1) The person who owns or operates a dog kennel or cattery must ensure that the premises comply with the following requirements:
- (a) all waste- and storm water must be discharged into a sewerage- or other approved system;
 - (b) all loose foods must be stored in rodent free receptacles with close fitting lids in a store room;

- (c) isolation facilities must be provided for sick dogs and cats and the facilities must be of durable material and constructed so as to be easily cleaned and disinfected;
 - (d) all animal waste must be stored in solid containers with tight fitting lids and must be removed on a daily basis from the premises and disposed of in an approved manner; and
 - (e) all animal cages or holding enclosures must be cleaned on a daily basis and be kept in a hygienic and odour free condition.
 - (f) all catteries and kennels must be operated in such a manner as not to constitute a health risk.
- (2) No person may conduct the business of a dog kennel or cattery in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 4 meters of any door, window or other opening to any existing habitable room or any existing room in which food for human consumption is stored processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

Part 2
Pet shops and parlours

11. Requirements relating to premises

- (1) A person who owns or operates a pet shop or pet parlour must ensure that the premises comply with the following requirements:
- (a) All cages must be –
 - (i) made entirely of a none corrosive material fitted with duplicate impervious movable trays and all tubular fittings *must be* closed at the ends; and
 - (ii) so arranged that the bottoms thereof are not less than 450 mm above the level of the floor or yard, as the case may be;
 - (b) storage space which is rodent-proofed, must be provided for animal bedding on the premises;
 - (c) meat, fish or perishable foodstuffs used in the feeding of an animal and stored in a pet shop, must be stored in a refrigerator which can maintain a temperature not exceeding 7°C;
 - (d) toilet facilities and a wash basin which is supplied with running water must be provided for those employed on the premises;

- (e) no more than 70% of the floor area of the premises may be covered by cages or goods incidental to the business; and
 - (f) all animal- and bird waste must be stored in solid containers with tight fitting lids and must be removed on a daily basis from the premises and disposed of in an approved manner
 - (g) all animal- and bird cages or holding enclosures must be cleaned on a daily basis and be kept in a hygienic and odour free condition.
- (2) No person may conduct the business of a pet shop or pet parlour in any building, structure or enclosure which has direct access to, or has a door, window or other opening within 4 meters of any door, window or other opening to any existing habitable room or any existing room in which food for human consumption is stored, processed or sold.
- (3) A person who contravenes a provision of subsections (1) and (2) commits an offence.

CHAPTER 4

ACCOMMODATION ESTABLISHMENTS

12. Application of Chapter

This Chapter applies to a person who owns or carries on the business of providing accommodation for gain in an accommodation establishment on premises within the municipal area, but does not apply to a private home.

13. Preparation and serving of food, Certificate of Acceptability

A proprietor who prepares or serves food on the premises for consumption by a guest, irrespective if the guest pays separately for the food or if a charge for the food is included in the accommodation costs, must comply with the provisions of the Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice No. R918 of 30 July 1999.

14. Premises

A proprietor must ensure that his premises, has access to safe water, sanitation and refuse removal and that household facilities, eating utensils, linen and bedding be kept in a clean and hygienic condition.

CHAPTER 5

CHILD CARE FACILITIES

15. Certificate Of Acceptability

- (1) No child care facility may be operated without a certificate of acceptability issued by the Environmental Health Practitioner. The issuing of such certificate will be subject to the conditions laid down in section 16.
- (2) Written approval in terms of subsection (1) will not exempt any person or premises from the requirements of any legislation relating to the care of children and / or the land use of the premises concerned.

16. Structural and other requirements

- (1) A Childcare facility must comply with the following requirements.
 - (a) Sandpits must be regularly treated with salt and must be covered after hours in order to make it inaccessible to animals.
 - (b) The walls and floors of classrooms must be of an easily washable material.
 - (c) Classrooms must have enough windows to ensure adequate ventilation and lighting.
 - (d) There must be at least 2 m² of indoor space available per baby (1 to 24 months) and 1.5 m² indoor space available per toddler (2 to 7 years). If no outdoor space is available, the indoor space must be 2.5 m² per toddler. There must also be at least 1 m² of outdoor space available for the first 30 toddlers.
 - (e) There must be at least one toilet available for every twenty toddlers. Toilet bowls and seats must be disinfected daily.
 - (f) If babies up to twenty-four months are accommodated, a separate facility for the washing of potties and the daily washing of nappies must be provided.
 - (g) At least one hand wash basin for every twenty toddlers or one bucket for every ten toddlers must be available. Clean water shall be available for the washing of children's hands. Soiled water must be disposed of in an approved manner. Soap and a drying cloth must be available at every hand wash basin.
 - (h) A kitchen or a food handling / preparation facility must comply with the provisions of the Regulation Governing General Hygiene Requirements for Food Premises and the Transport of Food, published under Government Notice Nr R918 of 30 July 1999.

- (i) All medicines, cleaning agents, liquid fuels, gas containers or any other poisonous or potentially harmful material must be stored safely and out of reach of children.
- (2) Should an owner or person in charge of a day care facility fail to comply with the provisions of subsection (1) the municipality may act in terms of Sections 36 or 37.

CHAPTER 6

SWIMMING POOL AND WATER RELATED RECREATIONAL FACILITIES

17. Duties of a swimming pool- and other water related recreational facility manager

- (1) A swimming pool- and other water related recreational facility manager must
 - (a) at all times keep the premises in a safe, clean and sanitary condition; and
 - (b) ensure that the water is at all times purified, treated and maintained to the standards mentioned in section 19(1).
- (2) A person who operates a swimming pool or other water related recreational facilities and who contravenes a provision of subsection (1) commits an offence.

18. Water supply

- (1) A swimming pool- or other water related recreational facility manager may, for the purpose of cleaning, filling or maintaining the water level in a swimming pool or other water related recreational facility, only use water from an approved source.
- (2) The environmental health practitioner may take samples of the water for the purpose of chemical or bacteriological analysis at times that he or she considers appropriate.
- (3) A person who operates a swimming pool or other water related recreational facilities and who contravenes subsection (1) commits an offence.

19. Safety of water

- (1) A swimming pool- or other water related recreational facility manager must ensure that the water in the swimming pool or any other water related recreational facility complies with the following requirements:
 - (a) The water must be free from floating, suspended or settled debris or swimming organisms;

- (b) the walls, floor, access ladders or steps and gutters must be free from slime or algae;
 - (c) Escherichia coli bacteria may not be present in any 100 ml of water.
- (2) A person who operates a swimming pool or other water related recreational facilities and who contravenes a provision of subsection (1) commits an offence.

CHAPTER 7

BARBERS, HAIRDRESSERS, BEAUTICIANS, BODY PIERCERS or TATTOOISTS

20. Certificate of Acceptability

- (1) No person may operate as a barber, hairdresser, beautician, body piercer or tattooist, and no barber, hairdresser, beautician, body piercing or tattooing salon may be operated without a certificate of acceptability issued by the Environmental Health Practitioner. The issuing of such certificate will be subject to the conditions laid down in section 21(2)(a) – (q).
- (2) Written approval in terms of section 20(1) will not exempt any person or premises from the requirements of any other legislation relating to a barber, hairdresser, beautician, body piercer or tattooist.

21. Health requirements

- (1) No person may use the premises of a salon for a purpose other than for the carrying on of the business of barber, hairdresser, beautician, body piercer or tattooist.
- (2) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must –
- (a) at all times keep a first aid kit on the premises, and treat an injury or wound which may occur on the premises;
 - (b) install or have available in the salon an appliance or other means whereby an instrument that have come into contact with human skin, hair or bodily fluid, such as, but not limited to, blood, may be sterilized or disinfected;
 - (c) ensure that only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilized needle sets may be used for applying permanent tattoos or body piercing, and all tubes and needles must be stored in single service, sterile, sealed autoclaved bags which must be opened in the presence of the client;
 - (d) ensure that all clip cords and spray bottles have triggers and grasp

areas, which grasp areas must be protected by plastic covering which must be disposed of after use on each client;

- (e) after each use of a blade, razor, pair of scissors, comb, brush, roller, nail file, clippers, or other instrument which was applied to the human hair, nail or skin, disinfect the instrument by applying a suitable disinfectant.
 - (f) wear new disposable latex or nitrile examination gloves for the duration of a procedure where he or she implants hair, pierces or tattoos skin, or uses a chemical or chemical compound in an activity;
 - (g) disinfect his or her hands before and after rendering any service to a client;
 - (h) directly after treatment of the client, clean and disinfect a surface that has been contaminated by body fluid; and
 - (i) dispose of any disposable glove or other disposable material after each use;
 - (j) at least once a day wash, with a disinfectant, all clothing such as aprons and caps, all surfaces such as, but not limited to, walls, floors, counters and chairs;
 - (k) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated disposable towels and paper in an approved manner;
 - (l) store sharp instruments such as, but not limited to, a razor, blade or needle in a separate container;
 - (m) after each use, wash and clean all plastic and cloth towels;
 - (n) generally, keep the premises, tools, equipment and clothing in a hygienic condition at all times;
 - (o) after every service, collect waste such as, but not limited to, hair clippings and towelling paper, and store or dispose of such waste in accordance with section 23;
 - (p) ensure that no animal, excluding a guide dog accompanying a blind person, enters the premises; and
 - (q) provide his or her employees with protective clothing, train any person working on the premises, and ensure that the employee complies with the provisions of this by-law.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

22. Requirements for premises

- (1) A person who carries on the business of barber, hairdresser, beautician, body piercer or tattooist in a salon or any other place, must ensure that the premises comply with the following:
 - (a) basins, with a supply of running hot and cold potable water, must be available for the washing of hair and hands;
 - (b) lighting, ventilation, water and toilet facilities as prescribed in the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977) must be provided;
 - (c) shelves, counters, table tops or other fixtures on which instruments are placed must be constructed of impervious material that is easy to clean;
 - (d) adequate facilities for the storage of clothes, instruments and appliances must be provided;
 - (e) facilities for the disposal of waste water must be provided;
 - (f) the walls and floors must be constructed of materials that are easy to clean; and
 - (g) unless separated by a wall, the premises may not be used for the storage and preparation of food, or for sleeping.
- (2) Should the owner, occupier or person in charge of the premises upon which the business is carried on fail to comply with a provision in subsection (1), the municipality may act in terms of section 36 and 37.

CHAPTER 8

WASTE MANAGEMENT

Part 1

General provisions regarding storage, recovery and disposal of waste

23. Storage, recovery and disposal of waste

- (1) Waste must be stored, recovered, transported and disposed of –
 - (a) without endangering human health;
 - (b) without the use of processes or methods which may be harmful to human health; and
 - (c) in a manner that does not create a health nuisance;

- (2) A person who contravenes subsection (1) commits an offence.

Part 2
Hazardous Waste

24. Applicable legislation

The municipality, taking cognizance of the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and the Hazardous Substances Act, 1973 (Act 15 of 1973), and the regulations made under these Acts, adopts the provisions in this Part.

25. Storage of hazardous waste

- (1) An empty container in which hazardous waste such as, but not limited to, pesticides was stored is to be treated as hazardous waste, and –
- (a) must be stored in such a manner that –
 - (i) no pollution of the environment which may be harmful to human health occurs at any time;
 - (ii) no health nuisance is created at any time;
 - (b) the date on which the container is stored must be clearly marked and visible for inspection on the container;
 - (c) while being stored on site, must be clearly marked or labelled with the words “Hazardous Waste”;
 - (d) the owner or occupier of the land must fence off the storage area to prevent unauthorised access; and
 - (e) shall be dealt with as Class 6 waste as described in the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (Second Edition, 1998) as published by the Department of Water Affairs and Forestry and as amended from time to time.
- (2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.

Part 3
Health Care Waste

26. Scope of application

Compliance with the provisions of this Part is mandatory for all generators of health care waste and, where applicable, for all transporters and disposers of health care

waste, and is mandatory at especially –

- (a) all health care facilities such as places or sites where professional health services are dispensed to human patients, including hospitals, mobile and stationary clinics, sick bays such as, but not limited to old-age homes, day units, hospices, rehabilitation centres, consulting rooms of medical doctors, oral health practitioners, traditional healers, traditional surgeons, professional nurses, facilities for rendering midwifery services, free-standing operating theatres, pharmacies and all similar sites;
- (b) all pathological and microbiological laboratories or places where biological research is carried out, and the premises of blood transfusion services;
- (c) the facilities of all manufacturers and distributors of pharmaceutical products or vaccines;
- (d) all mortuaries and undertaker premises;
- (e) all veterinary consulting rooms, animal hospitals, treatment-stations, dog kennels and catteries; and
- (f) any private dwelling or household or any other premises where the environmental health risk constituted by the quantity and nature of health care waste generated is such that such health care waste should be handled in accordance with these regulations.

27. Duties of generators, transporters and disposers of health care waste

- (1) Subject to the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989), and any other applicable legislation, every generator of health care waste and, where applicable, every transporter and disposer of health care waste must cause all such health care waste to be sorted, packed, contained, handled, stored, transported and disposed of in accordance with this Part.
- (2) The activities referred to in subsection (1) must be carried out in such way that the health care waste generated does not cause a Health nuisance or safety hazard for any handler thereof or any other person or the environment in general.
- (3) The responsible authority may, subject to the provisions of any provincial or national law, allow any person to dispose of health care waste in any other acceptable manner that ensures that such health care waste and method of disposal does not constitute a Health nuisance or a safety hazard for any handler thereof or any other person or the environment in general.
- (4) A person who intends to engage, on any plot or premises, in an activity which may cause health care waste to be generated must, prior to the generation of the health care waste inform the municipality by written notice of his or her

intention, and the notice must contain:

- (a) The composition, chemical or otherwise and nature of the health care waste;
 - (b) a description of the industrial process or trade giving rise to the health care waste;
 - (c) the estimated quantity of health care waste to be generated;
 - (d) the method of storage of the health care waste;
 - (e) the proposed duration of storage of the health care waste;
 - (f) the manner in which the health care waste will be collected;
 - (g) the manner in which and the disposal site at which the health care waste will be disposed of;
 - (h) the identity of the licensee removing the health care waste; and
 - (i) the number of persons employed on the premises.
- (5) If so required by the municipality, the notice must be substantiated by an analysis certified by an appropriately qualified industrial chemist of the composition of the health care waste, and must contain any other information required by the municipality.
- (6) Upon receipt and evaluation of the notice the municipality shall by written notice to person require him or her to execute at his or her expense any of the following:
- (a) To dispose of the health care waste in the same manner as other solid waste;
 - (b) to store and dispose of the health care waste in refuse receptacles, using special containers or labelling as directed by the municipality;
 - (c) to transport the health care waste to a processing facility as prescribed by the municipality, employing special containers and handling, and placing the health care waste in a specific area of the facility as directed by the facility operating plan;
 - (d) to cause the health care waste to be processed on the plot or premises of generation, thus rendering it non-hazardous;
 - (e) to take any other measures relative to transportation and disposal of the health care waste as determined by the municipality to be required to protect human health and the environment; or

- (f) to pay an additional tariff for collection and disposal of the health care waste.
- (7) The person must notify the municipality in writing of any changes occurring with respect to any of the matters stipulated in subsection (4).
- (8) Where the health care waste is being generated as a result of activities which commenced prior to the commencement of this by-law, the person must notify the municipality within 6 months of the commencement of this by-law.
- (9) An owner or occupier of a plot or premises where health care waste is generated must provide periodic training, on proper health care waste handling procedures, to all employees who may come into contact with health care waste.
- (10) A person who contravenes subsection (1), (2), (4), (6), (7), (8) or (9) commits an offence.

28. Storage of health care waste

- (1) Any person engaging in an activity which may generate health care waste must ensure that the health care waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2)
 - (a) Perishable health care waste must be stored at a temperature not exceeding 4°C, and should preferably be frozen.
 - (b) A health care waste storage area must –
 - (i) be vermin-proof, insect-proof, and rodent-proof;
 - (ii) have an easily cleanable floor and wall finishing and general construction;
 - (iii) be totally enclosed;
 - (iv) adequately ventilated and lighted; and
 - (v) be lockable.
 - (c) All health care waste must be stored in a health care waste storage area until it is loaded or removed for final disposal.
 - (d) On-site spills must be cleaned up immediately.
 - (e) All interior surfaces of storage areas must be meticulously disinfected and cleaned on a daily basis.
- (3) Provision must be made for unrefrigerated health care waste to be removed on

weekends and public holidays.

- (4) Subject to the provisions of sub-section (6), health care waste must, prior to final disposal at a registered or processing facility, be sterilized by a service provider using one of the following methods:
 - (a) autoclave;
 - (b) microwave;
 - (c) chemical treatment; or
 - (d) Incineration.
- (5) Sterilization of health care waste may be performed on the premises where the health care waste was generated or at an off-site location.
- (6) Health care waste must, prior to disposal, be placed in a colour coded heavy duty plastic bag or other suitable colour coded container as follows:
 - (a) Health care waste which has not been sterilized and rendered non-infectious must be placed in a red heavy duty plastic bag at the point of generation or disposed of at a municipal disposal or processing facility in an unsterilized condition;
 - (b) health care waste which has been sterilized by autoclave, microwave, chemical or other non-burning method, must be placed in a yellow heavy duty plastic bag;
 - (c) cytotoxic or genotoxic pharmaceutical health care waste and associated contaminated materials such as, but not limited to syringes, tubing, containers, preparation materials, vials and ampoules, must be discarded into a container which is labelled cytotoxic waste or genotoxic waste; and
 - (d) sharp objects such as, but not limited to needles and broken glass, contaminated with cytotoxins must be placed into a rigid, sealed, plastic container which is labelled cytotoxic sharps, and provision must be made in this regard for the safe discarding of the longest Trocar needle.
- (7) The above requirements for colour coded containers must be strictly adhered to for all movement and transportation of health care waste either on the premises of generation or in transit to an off-site sterilization or disposal facility.
- (8) A person who contravenes a provision of this section commits an offence.

29. Transport of health care waste

- (1) Only approved transporters may transport health care waste and must do so in

accordance with the requirements and provisions of the relevant legislation.

- (2)
 - (a) The loading compartments of transport vehicles for health care waste must be lockable and must comply with the following requirements:
 - (i) The compartment must be thermally insulated and capable of maintaining a refrigerated transport temperature not exceeding 4°C;
 - (ii) the interior panel construction must be so tightly joined as to ensure a removable liquid seal and airtight seal;
 - (iii) the interior surfaces must be painted white with a durable duco or enamel paint or have a finish approved by the municipality;
 - (iv) there must be a threshold of at least 100 mm at the doors to prevent leakages spilling outside; and
 - (v) the compartment must be equipped with approved Spilikits that are regularly checked and replenished.
 - (b) The transport vehicle must be manned by a team adequately trained in the effective use of the Spilikits and clean-up procedures.
 - (c) Every loading compartment must be meticulously disinfected and chemically cleaned on a daily basis.
- (3) A licensee licensed to collect and dispose of health care waste, must inform the municipality at those intervals the municipality may stipulate in the licence or elsewhere, about
 - (a) the removal of health care waste;
 - (b) the date of such removal, the quantity;
 - (c) the composition of the health care waste removed; and
 - (d) the facility at which the health care waste has been disposed.
- (4) A person who contravenes a provision of this section commits an offence.

30. Disposal facility and incineration

- (1) An approved transporter must dispose of the health care waste at an approved waste disposal facility for that purpose.
- (2) The incinerator and incineration process must comply with the prescriptions of all relevant legislation, such as the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), the Hazardous Substances Act, 1973

(Act No. 15 of 1973), and the Environmental Conservation Act, 1989 (Act No. 73 of 1989), in order to deal with health care waste having a wide variation in burning characteristics, ranging from highly volatile and high calorific-value plastics to high water-content material such as placentae.

- (3) Ashes from the incineration of health care waste may be disposed of without special containers or markings.
- (4) A person who contravenes subsection (1) or operates an incinerator or undertakes an incineration process in contravention of subsection (2) commits an offence.

CHAPTER 9

WATER AND SANITATION

31. Applicable legislation and enforcement

- (1) The municipality, taking cognisance of the provisions of the National Water Act, 1998 (Act 36 of 1998), adopts the provisions in this Chapter.
- (2) The municipality, taking cognisance of the provisions of the Water Services Act, 108 of 1997 and of the Regulations relating to Compulsory National Standards and Measures to Conserve Water published under GN R509 dated 8 June 2001, adopts the provisions in this Chapter.
- (3) Within the powers conferred upon the municipality by the National Health Act, 2003 (Act No. 61 of 2003), the municipality may act in terms of section 36 and 37 where the non-compliance with any of the provisions of the Act and Regulations contemplated in sub-sections (1) and (2) constitutes a Health nuisance.

32. Duties and prohibitions

- (1) An owner, occupier or user of land or premises must –
 - (a) keep every water passage open and free of obstruction from matter which may impede the flow of water or effluent so as to prevent the creation of a health nuisance.
 - (b) construct a bund wall around a tank, or group of tanks, that contain a substance that can create a health nuisance, of a size that contains the volume of the largest tank in the event of any unlawful or accidental discharge from the tank or group of tanks;
 - (c) clean any industrial surface area so as to prevent the pollution of storm water which may result in adverse impacts on the quality of any surface and ground water; and

- (2) An owner or occupier of land or premises may not –
 - (a) locate any dump within the one-hundred-year flood line of any water resource; or
 - (b) use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchments dam, or any embankment, road or railway in a way likely to create a health nuisance.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

CHAPTER 10

DISPOSAL OF CORPSES AND DISTURBANCE OF MORTAL REMAINS

33. Disposal of corpses

- (1) No person may inter a corpse in such a manner that it constitutes a health nuisance, and for this purposes the following apply:
 - (a) the lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1500mm in depth.
- (2) A person who contravenes the provision of subsection (1) commits an offence.

34. Disturbance of mortal remains

- (1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 (Act 58 of 1959), Section 3 of Ordinance No 12 of 1980 and any other provision of any Act relating to the exhumation of corpses, no person may, without the environmental health practitioner being present
 - (a) disturb a corpse or mortal remains or the ground surrounding it in a cemetery;
 - (b) open a grave;
 - (c) remove a corpse from a grave; or
 - (d) exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
- (2) No person may re-open a grave for the purpose of interring a second corpse in the same grave unless –
 - (a) the grave was initially made deeper for this purpose, and if not made deeper, then only 30 days after a period of 5 years since the interment

- of the first corpse;
 - (b) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm; and
 - (c) the consent of the local municipality has been obtained.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

CHAPTER 11

ENFORCEMENT

35. Environmental health practitioner

Sections 80 to 89 of the National Health Act, 2003 (Act 61 of 2003) apply, with the necessary changes, to the appointment, responsibilities and powers of the environmental health practitioner, and offences relating to such practitioner.

36. Notice of compliance and representations

- (1) Where an environmental health practitioner has reasonable grounds to believe that a person fails to comply with a requirement relating to premises, he or she may serve a notice of compliance on the person, which notice must state –
- (a) the name and residential or postal address of the person;
 - (b) the requirement which has not been complied with;
 - (c) that the person must within a specified period take measures to comply with the notice and to complete the measures before a specified date; and
 - (d) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the municipality at a specified place.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of this by-law, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make representations in terms of subsection (1)(d), and the person fails to take the measures before the date contemplated in subsection (1)(c), he or she commits an offence, and the municipality may, irrespective of any fines which may be imposed under section 45, act in terms of subsection (5).
- (4) (a) Representations not lodged within the time contemplated in

subsection (1)(d) will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.

- (b) The municipality must consider the timely representations and any response thereto by the environmental health practitioner.
 - (c) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
 - (d) The municipality must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the municipality must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.
 - (e) Where a person fails to discharge the obligations contemplated in paragraph (d), he or she commits an offence and the municipality may, irrespective of any fines which may be imposed under section 45, act in terms of subsection (5).
- (5) The municipality may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the municipality in accordance with section 40.

37. Prohibition notice

- (1) An environmental health practitioner may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and require measures to be taken to ensure that this occurs, on one or more of the following persons:
- (a) The owner or occupier of the premises if the municipality reasonably believes that the premises are being used for a purpose or in a manner that is causing a health nuisance;
 - (b) any person who is carrying on an activity or using a premises for a purpose or in a manner that the municipality reasonably believes is causing a health nuisance; or
 - (b) a person on whom a compliance notice was served if the municipality reasonably believes that that person has not complied with the compliance notice.

- (2) The municipality must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the municipality reasonably believes that the delay in doing so would significantly compromise municipal health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- (3) A prohibition notice must state –
 - (a) the reasons for serving the notice;
 - (b) whether or not the municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - (c) the possible consequences of failing to comply with the notice; and
 - (d) how to appeal against the notice.
- (4) Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection (1) and remains in force until it is withdrawn.
- (5) The environmental health practitioner must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- (6) It is a defence for anyone charged with failing to comply with a prohibition notice if he or she can prove that –
 - (a) he or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - (b) he or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection (5).

38. Withdrawal of prohibition notice

- (1) The municipality must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the land or premises.
- (2) After completing the investigation, the municipality must inform, in writing, the owner or occupier of the land or premises whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The municipality may charge the owner or occupier of the land or premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

39. Municipal remedial work

- (1) The municipality may enter and conduct inspections at any premises and do anything on the premises that it reasonably considers necessary –
 - (a) to ensure compliance with this by-law or with a compliance notice or prohibition notice;
 - (b) to eliminate or reduce a health nuisance.
- (2) Before inspecting any premises or commencing any work in terms of this section, persons undertaking the inspection or commencing the work must identify themselves and explain their authority to the person apparently in control of the premises or the person who gave them permission to enter.
- (3) Any inspection undertaken or work commenced in terms of this section must be carried out at a reasonable time, taking into account the circumstances of the specific situation.
- (4) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including –
 - (a) a person's right to, respect for and protection of his or her dignity;
 - (b) the right of a person to freedom and security; and
 - (c) the right of a person to his or her personal privacy.

40. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 36, the municipality may, subject to subsection (3) recover, as a debt, and in accordance with municipality's debt collection policy, all costs incurred as a result of it acting in terms of section 39(1) from that person and any or all of the following persons:
 - (a) the owner of the land, building or premises; or
 - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality.
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

41. Norms, standards and guidelines

(1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures that can be taken to eliminate the risk of any Health nuisance occurring, continuing or recurring, or to reduce that risk to an acceptable level.

(2) The norms, standards and guidelines contemplated in sub-section (1) may differentiate between communities, geographical areas and different kinds of premises.

CHAPTER 12

MISCELLANEOUS PROVISIONS

42. Presumptions

(1) When an employee of a person in the course of his or her employment performs any act or is guilty of an omission which constitutes an offence under this by-law, the employer is deemed also to have performed the act or to be guilty of the omission and the employer is liable on conviction to the penalties referred to in section 45, unless the employer proves to the satisfaction of the Court that –

- (a) in performing the act or being guilty of the omission, the employee was acting without the employer's knowledge or permission;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (c) it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.

(2) The fact that an employer issued instructions forbidding any act or omission of the kind referred to in subsection (1) is not in itself sufficient proof that he or she took all steps referred to in paragraph (1)(b).

(3) When an employer is by virtue of the provisions of subsection (1) liable for any act or omission of his or her employee, that employee shall also be liable to prosecution for the offence.

(4) In any prosecution for an offence under this by-law an allegation in the charge concerned that any place was situated in a street or public place or within a particular area or was a place of a specified kind, shall be presumed to be correct unless the contrary is proved.

(5) In any prosecution for an offence under this by-law the accused is deemed to know the provisions of this by-law and to know that the offence with which he or she is charged is a contravention thereof unless he or she proves to the

satisfaction of the Court that he or she did not have and could not reasonably be expected to have that knowledge.

43. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the Municipal Manager or his or her proxy.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

44. Appeal

- (1) A person whose rights are affected by a decision of the municipality in terms of this by-law may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Mayor is the appeal authority; or
 - (c) a political structure or political office bearer, or a councillor the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

45. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

46. Co-operation between municipalities and application

- (1) In an effort to achieve optimal service delivery, the municipality may enter into agreements with the local municipalities within its area of jurisdiction in respect of the following:
 - (a) Practical arrangements with regard to the execution of the provisions of this by-law;
 - (b) recovery of costs and expenses;
 - (c) mechanisms for the settlement of disputes with regard to the execution of powers or the matters on which there have been agreements;
 - (d) any other matter regarded necessary by the district and local municipalities to achieve optimal service delivery.

47. Liaison forums in community

- (1) The municipality may establish liaison forums in a community for the purposes of -
 - (a) encouraging a local community to participate in the implementation, development and enforcement of this by-law; and

- (b) promoting the achievement of a safe and healthy environment.
- (2) The forums contemplated in sub-section (1) may consist of-
- (a) a member or members of an interest group or an affected person in the spirit of section 2(4)(f) to (h) of the National Environmental Management Act, 1998 (Act 107 of 1998).
 - (b) a member or members of a community in whose immediate area a Health nuisance occurs or may occur;
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for municipal health.
- (3) The municipality may, in the implementation and enforcement of this by-law, -
- (a) request the input of a forum;
 - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section 2, may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998 (Act 107 of 1998), submit an input to the municipality for consideration.

48. 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 must 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 sub-section (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.

49. Repeal of by-laws

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the local municipalities within the jurisdictional area of Central Karoo District Municipality, or any of the disestablished municipalities now incorporated into the said municipalities, in so far as it has been made applicable to Central Karoo District Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

50. Short title and commencement

This by-law is called the Central Karoo District Municipality: Municipal Health By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.