

## LOCAL GOVERNMENT NOTICE

### CHRIS HANI DISTRICT MUNICIPALITY

#### BY-LAW RELATING TO MUNICIPAL HEALTH SERVICES

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law Relating to Municipal Health Issues.

#### **PREAMBLE**

RECOGNISING the constitutional right of every person to an environment that is not harmful to his or her health, 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), the Council adopts these By-laws with the aim of protecting and promoting the health and well-being of all people in the Chris Hani

WHEREFORE this by-law, in conjunction with applicable laws, provides for a legal and administrative framework within which the municipality can manage and regulate activities that have the potential to constitute environmental health hazards and environmental health nuisances on land or premises.

#### **CHAPTER 1**

#### **DEFINITIONS**

- 1. Definitions**– In this by-law, words used in the masculine gender includes the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates -

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

**“adequate”** means the standard or manner that, in the opinion of an environmental health practitioner, is sufficient to safeguard public health, and to achieve the purpose and application of the principles of this by-law, and “adequately” has a corresponding meaning;

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

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

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

**"animal"** means any equine, bovine, sheep, goat, pig, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person; or an insect such as, but not limited to, a bee which is used or controlled by 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 any organism, protozoon, bacterium, virus, fungus, rickets, parasite, other organism or substance;

**"animal waste"** means the faeces, manure, droppings, shed hair or feathers of an animal;

**“approved”** means an object, measure or material approved by an environmental health practitioner to be adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any environmental health hazard or health nuisance occurring, continuing or recurring;

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

**“authorised person”** means an Environmental Health Practitioner employed by the Chris Hani District Municipality;

**"barber, hairdresser or beautician"** means a person who carries on the business of barber, hairdresser or beautician in a salon or another 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.

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

**"building, structure, enclosure or runway"** means a building, structure, enclosure or runway 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;

**"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 by the Council as a cemetery for the disposal of the dead;

**"chimney"** means any structure or opening of any kind from or through which air may be emitted;

**"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;

**"communicable diseases"** means a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host;

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

**“council”** means –

- (a) the Chris Hani District Municipality, established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising legislative and executive authority through its municipal Council; or
- (b) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (c) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be;

**"dangerous dog"** means a dog which has an inherent propensity to attack human beings or other animals, or the keeping of which is fraught with danger to any person or animal;

**“dark smoke”** means:

- (a) smoke which when measured using a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater;
- (b) In respect of this by-law:
  - (i) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
  - (ii) smoke which has a light absorption co-efficient of more than 2.125 m-, provided that in relation to emissions from turbo-charged compressed

ignition powered engines, it means a light absorption coefficient of more than 2.51 m<sup>-1</sup>;

**“disturbing noise”** means a noise level that exceeds the ambient sound level measured continuously at the same measuring point by 7 dBA or more.

**"dog"** includes a neutered male dog and spayed bitch;

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

**“domestic water consumption”** means the use of water for:

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

**"dormitory"** means a sleeping room in which sleeping accommodation is provided

**“dust”** means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere and are smaller than 10 microns;

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

**"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 influence human health and well-being;

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

**“environment”** means the surroundings within which humans exist and that are made up of

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

**“environmental health”** comprises:

- (a) those aspects of human health, including the quality of life, that are determined by physical, chemical, biological, social and psycho-social factors in the environment; and
- (b) theory and practice of ascertaining, correcting, controlling, minimizing and preventing those factors in the environment that can potentially and adversely affect the health of present and future generations.

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

- (a) the circumstances referred to in section 5 (3);
- (b) unsanitary conditions;
- (c) circumstances which make it easier for a communicable disease to spread;
- (d) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and

(e) circumstances which allow vectors to infest any place where they may affect public health;

**“environmental health practitioner”** means a person appointed as a health officer under Section 80 of the National Health Act , 2003 (Act No. 61 of 2003) and registered with the Health Professions Council of South Africa as an environmental health practitioner.

**"escherichia coli"** also known as E-coli is a common form of bacteria causing food poisoning.

**"the fellmonger"** is the only person who can expertly strip the wool from the skin of a sheep and at the same time put it into various grades".

**"fence"** includes a fence that is not erected on a boundary;

**“free acceleration test”** means a method used to determine whether a compressed ignition powered vehicle is being driven in contravention of these by-laws;

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

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

**"hazardous agricultural waste"** means waste generated by agricultural activities that has the potential, even in low concentrations, to have a significant adverse effect on the environment and environmental health because of its inherent toxicological, chemical or physical characteristics;

**“health nuisance”** means a situation, or state of affairs, that endangers life or health or adversely affects the well-being of a person or community as listed in schedule A.



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

**"Leather dresser"** is a leather tanner.

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

**“livestock”** means horses, cattle, sheep, goats, pigs, mules, donkeys and poultry

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

**“litter”** means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

**"Sub-district Manager"** is manager in a sub-district area previously referred to as a Local Service Area Manager or LSA by the Department of Health;

**"proprietor", "landlord or landlady"** means the person who owns or operates an accommodation establishment;

**"medical waste"** means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, and veterinarian 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 hypodermic needles, scalpels and broken glassware;

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

**"municipal area"** means the area under the jurisdiction of the Council;

**"municipal health"** means municipal health services as defined in the National Health Act, 2003 (Act No. 61 of 2003) as a list of environmental health functions

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

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

**"noise nuisance"** is a measured noise between 80 to 90dBA and is defined as any noise that disturbs or impairs or may disturb or impair the convenience or peace of any person.

**"non-communicable disease"** means a disease or health condition that cannot be contracted from another person, an animal or directly from the environment

**"nuisance"** means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by another person

**"nuisance dust"** means particles larger than 10 microns

**"nuisance waste"** means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or

managing of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering

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

**"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 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;

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

- (a) panel beating or spray painting;
- (b) operating a waste recycling plant including oil and petroleum product recycling;
- (c) scrap yard or scrap metal dealing;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling, tripe boiling or cleaning, skin storing, bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing, tanning or glue or size making;
- (e) charcoal burning, brick burning, lime burning;

- (f) manure making or storing or compost making;
- (g) parchment making;
- (h) manufacturing malt or yeast;
- (i) cement works, coke-ovens or salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
- (m) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
- (n) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enameled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide; or
- (o) the refining or processing of petrol, oil or their products;

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

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

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

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

**"owner"**, in relation to –

- (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; and
  - (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; who is not occupying the premises but is entitled to do so; or who manages the premises or a business on the premises on behalf of a person referred to in paragraph (a), (b) or (c);

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

**"pest"** means any animal or mammal which may create an environmental health hazard or health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches;

**"pet parlour"** means an establishment where pets are groomed;

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

**"potable water"** means water that complies with the requirements set out in SABS 241: Water for Domestic Supplies;

**"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;

**"pre-school 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 under the age of seven years, or the building or the premises maintained or used for the purpose of conducting such undertaking or institution thereon as the case may be;

**"prescribed fee"** means a fee determined by the Council by resolution in terms of section 75A of the Local Government Municipal Systems Act ,2000( Act 32 of 2000)

**"proclaimed township"** means any land unit zoned and utilised for residential purposes

**"public gathering"** means a gathering of people including but not limited to

- (a) music concerts
- (b) sport gatherings
- (c) inaugurations
- (d) international and national conventions and conferences

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

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

**“public place”** means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;

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

**"regulations"** means the Regulations Governing General Hygiene Requirements for Food Premises, Transport of Food and Related Matters , published under Government Notice No. R934 of 30 November 2015, made in terms the National Health Act, 61 (Act 61 of 2003);

**“salon”** means a place where any one or more of the services or activities contemplated in the definition of “barber, hairdresser or beautician” are normally carried on;

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

**“special events”** means events of national interest as well as international events....

**"Spillkits"** are cleaning apparatus for (medical) liquid waste.

**“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;

**"vector"** means organism that does not cause disease itself but which transmits infection by conveying pathogens from one host to another.

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

**"veterinary surgeon"** means any person who is registered to practise in the veterinary profession in terms of section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).

**"waste"** means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of treatment, discarding or recycling and may be liquid or solid, may include products that contain a gaseous component and may originate from domestic, commercial, medical or industrial activities, but does not include any gas or gaseous product which may be regulated by national or eastern cape provincial legislation;

## CHAPTER 2

### ENVIRONMENTAL HEALTH PRINCIPLES

#### 3. Everyone:

- 3.1. has a constitutional right to an environment that is not harmful to his or her health or well-being.
- 3.2. has a right to have access to sufficient water, and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.



- 3.3. has a duty, at all times, to eliminate risk of an environmental health hazard occurring, continuing or recurring by reducing it to a level acceptable to the Council .
- 3.4. who owns or occupies premises in the municipal area must ensure that they are used for and maintained in a manner that ensures that no environmental health hazard or health nuisance occurs on the premises.
- 3.5. who wishes to undertake an activity which creates a risk to public health that is more than trivial or insignificant must –
- (a) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
  - (b) shall bear the costs of taking those measures and of any reasonable costs incurred by the Council in the event that it ensures that the risk is eliminated or reduced to an acceptable level.

[6]The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that –

- a. avoids creating an environmental health hazard or an environmental health nuisance;
- b. does not make it easier for any human or animal disease to spread; does not give rise to unsanitary or unhygienic conditions;
- c. prevents unsafe food or drink from being eaten or drunk; avoids creating conditions favourable for infestation by pests; or
- d. wherever reasonably possible, improves public health in the municipal area.

(6) In dealing with matters affecting public health the Council must –

- a. adopt a cautious and risk-averse approach;
- b. prioritise the collective interests of the people of the municipal area, and of South Africa, over the interests of any specific interest group or sector of society;
- c. take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;

- d. adopt a long-term perspective that takes account of the interests of future generations; and
- e. take account of, and wherever possible without compromising public health, minimise any adverse effects on other living organisms and ecosystems.

#### **4. Application of principles:**

The environmental health principles set out in section 3 must be considered and applied by any person –

- a. exercising a power or function or performing a duty under these By-laws;
- b. formulating or implementing any policy that is likely to have a significant effect on, or which concerns the carrying on of activities likely to impact on, public health in the municipal area; or
- c. exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health in that area.

#### **5. Environmental health hazard and environmental health nuisance:**

(1) An environmental health hazard exists or occurs if any of the following occurs on 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 offensive or to be injurious or dangerous to health;
- (b) an accumulation of waste or other matter which is offensive or injurious or dangerous to health occurs;
- (c) a building, structure, enclosure or runway is –
  - (i) so constructed, situated, used or kept as to be offensive or injurious or dangerous to health;
  - (ii) not kept in a clean state and free from offensive smells or effluvia rising from whatever source therefrom;
  - (iii) kept or permitted to remain in an unsanitary state as to be offensive or injurious or dangerous to health; or
  - (iv) infested with pests or vermin or in a state that is conducive to the breeding of pests or vermin;

- (d) conditions exist that are conducive and contributive to the spread of a contagious and communicable disease;
  - (e) organic matter is being used or kept in a manner that attracts vector, vermin, or pests such as, but not limited to rats, mice, flies and mosquitoes;
  - (f) unsanitary conditions occur in any part of the land or premises;
  - (g) any water supply for domestic consumption is unsafe for human consumption;
  - (h) a building, structure, enclosure or runway 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
  - (i) a building or structure is demolished without first eradicating all vermin;
  - (j) a dwelling is occupied for which no proper and sufficient supply of pure water is available within 200 meters;
  - (k) a dwelling is occupied for which no proper toilet facilities are available;
  - (l) a dwelling is occupied which is not properly ventilated.
- (2) In addition to the instances stipulated in subsection (1), an environmental health hazard exists or occurs if any factory or industrial or business premises –
- (a) is not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated;
  - (b) is so overcrowded, badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon; or
  - (c) cause or give rise to smells or effluvia which are injurious or dangerous to health.
- (3) An environmental health nuisance, whether or not occurring or arising from an environmental health hazard, exists if –
- (a) a building, structure, enclosure or runway on land or premises is aesthetically offensive;
  - (b) an obnoxious smell, pests, vermin, vector, dust, ash, grit, soot, smoke or noise from whatever source emanate from land or premises;
  - (c) any part of land or premises is kept or permitted to remain in such a state as to be offensive; or

- (d) any other activity, condition declared to be an environmental nuisance under any law exists or occurs on or emanates from land or premises.

**6. Prohibition on creation, existence or occurrence of environmental health hazard or environmental health nuisance:**

- (1) No person may, in any area under the jurisdiction of the municipality –
  - (a) create an environmental health hazard or an environmental health nuisance;
  - (b) perform any act which may cause an environmental health hazard or an environmental 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 an environmental health hazard or an environmental 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 an environmental health hazard or an environmental 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 an environmental health hazard or an environmental health nuisance;
  - (e) defecate or urinate in a public place except in a facility which is provided by or on behalf of the municipality for the purpose;
  - (f) spit in a public place;
  - (g) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person;
  - (h) carry on any premises in the municipal area any trade, business, profession or hobby which is a source or become a source of discomfort or annoyance to other people;

- (i) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
- (j) allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- (k) use or cause or permit to be used a stoep or veranda of a shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
- (l) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- (m) defoul, misuse or damage a toilet provided in a public building or public place;
- (n) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment.
- (o) 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 offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any environmental health hazard or environmental health nuisance;
- (p) accumulate, dump, store or deposit any waste material in any street, public place or built-up or vacant premises or land;
- (q) by an action directly or indirectly or by negligence allow that [a] an environmental health hazard or environmental health nuisance be created or continued.
- (r) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose; or
- (s) cleanse or wash any vehicle or part in any street or public place.

- (t) use any chemical in such a way that it could cause injury, ill-health or death to human beings.
  - (u) dispose any chemical in such a way as to have a detrimental effect on the environment.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

**7. Duty to eliminate or reduce environmental health hazard or environmental health nuisance:**

- (1) (a) The owner, occupier or user of land or premises must –
- (i) ensure that an environmental health hazard or an environmental 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 an environmental health hazard or environmental health nuisance on the land or premises, eliminate the environmental health hazard or environmental health nuisance, or if he or she is unable to eliminate the environmental health hazard or environmental health nuisance –
    - (aa) take steps to reduce the risk to environmental health; and
    - (bb) report the existence of the environmental health hazard or environmental health nuisance to the environmental health practitioner.
- (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 appliance that will reduce or eliminate flies
  - (ii) mosquitoes –
    - (aa) drain accumulated water at least once every seven days;
    - (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 clear clogged or sagging gutters and down pipes so that stagnant water cannot accumulate in them; and
- (c) vermin, use mouse traps or vermin poison.
- (2) (a) The owner, occupier or user of land or premises –
- (i) must adequately protect a well, hole, pit, reservoir, pond or excavation thereon containing or capable of containing at any point water to a depth of more than 300 mm so as to prevent access thereto by a child under the age of 4 years;
  - (ii) 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 an environmental health hazard or an environmental health nuisance; and
  - (iii) may not allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated.
- (b) For the purpose of subsection (2)(a)(i), “adequately protect” means to provide a fence or wall or covering, which wall or fence may be not less than 1,25 metre in height and must be so situated and constructed as to be impenetrable to a child under the age of 4 years, and a gate to such enclosure must be fitted with a self-closing device and a latch inaccessible to such a child from the outside, and which covering must be so secured and constructed as to be impenetrable to a child under the age of 4 years.
- (c) Despite the provisions of paragraph (b), the municipality may permit the use of other effective means of protection.

(d) Should any hole, well, pit, excavation, pond, or reservoir contemplated in subsection (2), be unprotected or inadequately protected, the municipality may serve a notice of compliance on the owner, occupier or user requiring him or her adequately to protect or fill in such hole, well, pit, excavation, pond or reservoir within a period specified in the notice not being less than 14 days.

(3) (a) The occupier of premises which is a factory or in or on which there is carried on any business, occupation or trade, must at all times –

- (i) while any activity is being carried on the premises;
- (ii) while the premises are open for business;
- (iii) while the occupation or trade is being carried on; or
- (iv) during business hours,

whichever is applicable, keep any sidewalk or verge which abuts or adjoins the premises, including the gutter and kerb, free of litter and keep the same in a clean and satisfactory state and to this end remove all litter there from.

(b) The occupier must cause all litter removed to be placed in refuse receptacles provided by or on behalf of the municipality to be disposed of in a municipal landfill site

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

## **8. Duty to report environmental health hazards:**

Any person who knows of an environmental health hazard on any premises, must within 24 hours of becoming aware of its existence –

- (a) eliminate the environmental health hazard; or
- (b) if the owner or occupier is unable to comply with paragraph (a), take reasonable steps to reduce the risk to public health and forthwith report the existence of the environmental health hazard to the Council.



## CHAPTER 3 FOOD CONTROL

### 9. Certificate of acceptability:

No person shall handle food or permit food to be handled on food premises in respect of which a valid certificate of acceptability has not been issued or is not in force according to Regulation 364 of 30 November 2015.

### 10. Food quality requirements:

- (1) No person shall provide food for sale for human consumption that is not safe, wholesome and fit for human consumption and conforms to safety, nutrition and quality requirements.
- (2) All food intended for human consumption must comply with the standards as stipulated in the Foodstuffs, Cosmetic and Disinfectants Act, 1972 (Act No.54 of 1972)

### 11. Transportation of food:

No person shall transport food in any part of a vehicle

- (a) Unless that part of a vehicle is clean and has been cleaned to such an extent that chemical contamination of the food is prevented;
- (b) together with
  1. contaminated food or waste food,
  2. poison or any harmful substance;
  3. a live animal; or
  4. Any object that may contaminate or spoil the food

## **12. Labelling of foodstuffs:**

All food intended for human consumption must be honestly and accurately labelled.

## **13. Meat and animal product safety:**

- (1) the hygiene control and all meat inspections at a municipal abattoir shall be regulated and executed by an environmental health practitioner of this municipality.
- (2) Any person who keeps an animal prior to slaughtering it for any religious or ceremonial purposes, must comply with the provisions of this Chapter applicable to the animal concerned.
- (3) A person intending to slaughter an animal in any place other than in a recognised abattoir must -
  - (a) notify the Council in writing, fourteen days (14) prior to the event;
  - (b) slaughter the animal in a position where the slaughtering cannot be observed by any person on neighbouring premises or any member of the public;
  - (c) use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;
  - (d) handle the meat in a hygienic manner at all times;
  - (e) dispose of any portions of the animal which are not used or consumed, in a manner which will not become a public health hazard or public health nuisance; and
  - (f) not keep such animal prior to slaughtering for a period in excess of 24 hours.

## CHAPTER 4

### OFFENSIVE TRADES

#### 14. Offensive trades:

- (1) No person may conduct an offensive trade in or on any premises, except in terms of a permit authorizing such trade issued by an environmental health practitioner.
- (2) A permit must be displayed-
  - (a) on the premises to which it relates;
  - (b) in such a manner as to be clearly visible at all times to any member of the public entering the premises.
- (3) The requirements for the premises, duties of offensive traders, requirements regarding liquid refuse from bone and tripe boiling, requirements for liquids, tanks and tubs in leather making and the storage of rags, bones and waste should comply with the requirements as stipulated in the Schedule G: Offensive trades.
- (4) If the environmental health practitioner is of the opinion that such compliance is not reasonably practicable owing to the physical features and facilities of the premises, he or she may issue a provisional permit subject to compliance with such other reasonable requirements as he or she may deem necessary.
- (5) If a permit holder dies or ceases to operate the offensive trade to which his or her permit relates, the permit becomes invalid and is not transferable to any other person or any heir of or successor in title to the permit holder.
- (6) If a permit holder transferring an offensive trade operated on certain premises to other premises, he or she must obtain a permit in respect of such other premises before the offensive trade may be operated on those premises.

## 15. Offensive Trades: Requirements for premises

No person may conduct an offensive trade in or on any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may –
  - (i) discharge offensive or injurious effluent or liquid; or
  - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material;
- (k) adequate sanitary fixtures are provided as prescribed in the National Building Regulations and Building Standards Act;
- (l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 metres, is constructed around the premises;

- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities on the premises from public view; and
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- (p) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
  - (i) an adequate metal locker for every employee;
  - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
  - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (q) if no change-room has been provided in terms of paragraph (p) –
  - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
  - (ii) an adequate metal locker must be provided for every employee in the work area.

**16. Duties of offensive traders:**

Every offensive trader must -

- (a) maintain the premises in a clean, hygienic and good condition at all times;
- (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- (c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
- (d) prevent any waste accumulating on the premises; and
- (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of any material on the premises.

**17. Liquid refuse from bone and tripe boiling:**

- (a) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.

- (b) The cooling process referred to in subsection (1), must take place in a manner that prevents the generation of any noxious and injurious effluent.

**18. Liquids, tanks and tubs in leather making:**

Every fell-monger, leather dresser or tanner must -

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

**19. Storage of rags, bones and waste:**

No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is –

- (a) inhabited by people; or
- (b) not adequately ventilated.

**CHAPTER 5**

**SURVEILLANCE AND PREVENTION OF COMMUNICABLE AND NON  
COMMUNICABLE DISEASES**

**20. Prevention and restriction of and control over communicable diseases:**

An environmental health practitioner may, when it comes to his or her notice that a communicable disease is present or has occurred in his or her area and if he/she is reasonably satisfied that the spread of such disease constitutes or will constitute a real danger to health, may, by written order and subject to conditions contained in such order –

- (a) close any public place;
- (b) regulate or restrict any person to any area;

- (c) place any person or persons or any premises or specific area under quarantine in order to prevent the spread of such disease or in order to control or restrict such disease.

**21. Prevention and restriction of and control over non-communicable diseases:**

A person is guilty of an offence if the person has directly or indirectly caused another person to suffer from a non-communicable disease.

**CHAPTER 6  
VECTOR CONTROL**

**22. Prevention of the transmission of communicable diseases by animals, insects and parasites:**

- (1) In order to prevent the transmission or development of a communicable disease among people an environmental health practitioner may, by means of a written notice, order the owner or occupier of any premises to remove or remedy conditions that permit or favour the occurrence or increase on such premises of any animal, animal carcass, animal product, animal parasite, arthropod, plant or plant material, plant parasite or micro-organism referred to in the notice.
- (2) An owner or occupier of land shall take all reasonable measures to treat any collection of water or any other habitat in which mosquitoes can breed or live on such land in such a way that the breeding of mosquitoes is prevented or kept to the minimum.
- (3) An owner or occupier of land shall take all reasonable measures to prevent the spread of communicable disease by flies or other insects, the extermination of flies or other insects and the removal or remedy of conditions permitting or favoring the prevalence or increase of flies and other insects
- (4) An owner or occupier of premises creates a health nuisance if -
  - (a) the premises are maintained in a manner that attracts or harbours rodents or other pests, or is conducive to the breeding thereof;

- (b) flies are being attracted to, or can breed on, the premises, in significant numbers because –
    - (i) insufficiently rotted manure or any other organic material is being kept or used; or
    - (ii) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies;
  - (c) mosquitoes can breed in significant numbers on the premises because –
    - (i) containers in which mosquitoes can breed, such as tyres, bottles, crockery, and tins, have been left or are kept on the premises;
    - (ii) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
    - (iii) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
    - (iv) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations, wells, swimming pools or any other stagnant water source on the premises.
- (5) The following measures are approved measures for the purposes of subsection (1)(c)(iv) –
- (a) draining accumulated water at least once every seven days;
  - (b) covering accumulated water with oil at least once every seven days; and
  - (c) in the case of wells, providing a mosquito-proof cover and a pump.



**CHAPTER 7**  
**ENVIRONMENTAL POLLUTION CONTROL**

**23. Noise Control:**

(1) No person may erect educational, residential, flat, hospital, church or office buildings in an existing area for which a zone sound level has been designated, unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured to such a level as determined by the designated zone sound levels, approved by Council;

(2) No person may situate educational, residential, hospital or church erven within a controlled area or an area that has been rezoned: Provided that such situation may be allowed by the local authority concerned in accordance with the acoustic screening measures mentioned by the environmental health practitioner in the approved building plans

(3) No person may operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public or at one metre from the source of the sound, exceeds 90dBA, unless permission has been obtained from the municipality stating the period that noise should not exceed 8 hours in a day or from 14:00 to 22:00 pm in a given day.

(4) Excessive, disruptive and displeasing noise emanating from any activity on any premises must be controlled to ensure acceptable levels.

The level of noise produced on an industry that emits noise should conform to the requirements as specified in the Occupational Health & Safety Act 85 of 1993

(5) Noise prevention and mitigation measures should be applied where predicted or measured noise impacts from a project facility or operations exceed the applicable noise level guideline at the most sensitive point of reception.

(6) Utilising measures for controlling noise from stationary sources by implementing noise control measures at source.

## **24. Waste Management:**

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may dump waste
- (4) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Eastern Cape provincial authorities permit such incineration, or at a place designated by the Council for that purpose.

### **24.1 Storage of special industrial, hazardous or health care risk waste**

- 1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- 2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.

## **25. General requirements with regard to Air pollution:**

- (1) Any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:
  - (a) to prevent any potential significant air pollution from occurring; and;
  - (b) to mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred.
- (2) The Council may, by resolution direct any person who fails to take the measures required under subsection (1) –
  - (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
  - (b) to commence taking specific reasonable measures before a given date;
  - (c) to diligently continue with those measures; and

(d) to complete them before a specified reasonable date.

**25. Smoke emissions from dwellings:**

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

**26. Smoke emissions from premises other than dwellings:**

- (1) Subject to section 36, dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented.
- (3) If dark smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.
- (4) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.
- (5) No person shall use or operate any fuel-burning equipment on any premises contrary to the necessary authorisation.

## 27. Emissions caused by open burning:

- (a) The prior written authorisation of the Council, which may include the imposition of further conditions with which the person requesting authorisation must comply, has been obtained;
- (b) The material is open burned on the land from which it originated;
- (c) That person has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimise the amount of material to be open burned, to the satisfaction of the Council;
- (d) That person has investigated and assessed every reasonable alternative for removing the material from the land or premises, to the satisfaction of the Council;
- (e) That person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
- (f) A warning under section 10(1) (b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region;
- (g) The land on which that person intends to open burn the material is State land, a farm or small-holding, or land within a proclaimed township that is not utilized for residential purposes;
- (h) The open burning is conducted at least 100 metres from any buildings or structures;
- (i) The open burning will not pose a potential hazard to human health or safety, private property or the environment;
- (j) That person has notified in writing the owners and occupiers of all adjacent properties of:
  - (i) All known details of the proposed open burning; and
  - (ii) The right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and

**28. Emissions from compressed ignition powered vehicles:**

No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.

*Stopping of vehicles*

In order to enable an authorised person to enforce the provisions of this part, a driver of a vehicle must stop when directed to do so and comply with any reasonable direction given by an authorised person in order to effect the free acceleration test,

**CHAPTER 8**  
**APPOINTMENT, RESPONSIBILITY AND POWERS OF**  
**AN ENVIRONMENTAL HEALTH PRACTITIONER**

**29. Appointment of environmental health practitioner**

- (1) The municipality must only appoint an environmental health practitioner who is registered at the Health professionals Council of South Africa (HPCSA) who will be vested with the authority to exercise a power granted by and within the scope of the provisions of these By-laws.
- (2) In appointing an environmental health practitioner, the municipality must have regard to -
  - (a) a person's technical understanding and experience of matters related to environmental health; and
  - (b) any other factor that may be relevant to supervision and enforcement of these By-laws, whether technical or administrative.
- (3) An environmental health practitioner may be an employee of the municipality or a service provider of the municipality, and in the instance where an environmental health practitioner is an employee of a service provider, there may be no conflict of Interest between his or her duty as an environmental health practitioner and as an employee of the service provider.

- (4) Upon appointment the municipality must issue the environmental health practitioner with an identity card which must state the name and function of the environmental health practitioner and which includes a photograph of him or her.
- (5) An environmental health, practitioner, acting within the powers vested in him or her by these By-laws or a specific environmental management Act must, on demand by a member of the local community, produce the identity card.

### **30. Responsibility**

- (1) An environmental health practitioner, within his or her mandate –
  - (a) must monitor and enforce compliance with these By-laws;
  - (b) may investigate any act or omission which on reasonable suspicion may constitute –
    - (i) an offence in terms of these By-laws;
    - (ii) a breach of a provision of these By-laws; or
    - (iii) a breach of a condition of a permit, authorisation or other instrument issued in terms of these By-laws.
- (2) An environmental health practitioner –
  - (a) must exercise the powers referred to in subsection (1) –
    - (i) in accordance with any instructions issued by the municipality; and
    - (ii) subject to any limitations and procedures that may be prescribed; and
  - (b) may be accompanied by an interpreter or any other person whose assistance may be reasonable required.

### **31. General powers:**

- (1) An environmental health practitioner may –
  - (a) require a person to disclose information, either orally or in writing, and either alone or in the presence of a witness, about any act or omission which, on reasonable suspicion, may constitute –
    - (i) an offence in terms of these By-laws;
    - (ii) a breach of a provision of these By-laws; or

- (iii) a breach of a condition of a permit, authorisation or other instrument issued in terms of these By-laws;
- (b) question a person about or inspect any document, book or record or any written or electronic information –
  - (i) which may be relevant for the purpose of paragraph (a); or
  - (ii) to which these By-laws relate;
- (c) copy, or make extracts from any document, book or record, or any written or electronic information, referred to in paragraph (b), or remove such document, book or record or written or electronic information to make copies or extracts;
- (d) require a person to produce or deliver to a place specified by the environmental health practitioner, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;
- (e) question a person about or inspect, and if necessary remove, any specimen, article, substance or other item which on reasonable suspicion may have been used in –
  - (i) committing an offence in terms of these By-laws;
  - (ii) breaching a provision of these By-laws; or
  - (iii) breaching a condition of a permit, authorisation or other instrument issued in terms of these By-laws;
- (f) record information by any method, including by taking photographs or making videos;
- (g) demand the name, address and identification number of any person who –
  - (i) is reasonably suspected of having committed an offence in terms of these By-laws;
  - (ii) is reasonable believed to be able to give evidence relating to an offence in terms of these By-laws; or
  - (iii) is reasonable suspected of having evidence that an offence in terms of these By-laws has been committed;
- (h) instruct a person who –
  - (i) commits an act in contravention of a provisions of these By-laws or of a condition of a permit, authorisation or other instrument issued in terms of these By-laws, to cease committing that act immediately or within a specified period; or

- (ii) fails to perform an act required by a provision of these By-laws, or by a condition of a permit, authorisation or other instrument issued in terms of these By-laws, to perform that act immediately or within a specified period;
  - (i) dig or bore into the soil;
  - (j) take samples;
  - (k) seize and remove any item in respect of which, on reasonable suspicion, an offence in terms of these By-laws or a condition of a permit, authorisation or other instrument issued in terms of these By-laws; has been or is being committed;
  - (l) carry out any other duty that may be prescribed in terms of these By-laws.
- (2) An environmental health practitioner must –
- (a) provide a receipt for –
    - (i) any document, book, record or written or electronic information removed in terms of subsection (1)(d); or
    - (ii) any specimen, article, substance or other item removed in terms of subsection (1)(f); and
  - (b) return anything removed within a reasonable period.

### **32. Powers to enter and search premises or land**

- (1) An environmental health practitioner may, subject to subsection (3), enter and search any premises or land on reasonable suspicion, and provided the necessary warning has been given in terms of s(2) hereof
- (a) that an offence in terms of these By-laws has been or is being committed on, in or in respect of such premises or land;
  - (b) that a provision of these By-laws, or a condition of a permit, authorisation or other instrument issued in terms of a these By-laws has been or is being breached on, in or in respect of such premises or land; or
  - (c) that a thing which may serve as evidence of such offence or breach is kept on or in such premises or land.
- (2) Fair warning of at least 7 days in writing must be given to all owners or occupiers of land that there is an alleged infringement of these by-laws and giving them an



opportunity to remedy this infringement within 7 days, failing which an environmental health practitioner will be entitled to exercise the powers specified herein. This warning need not be given in the event of a possible or real environmental emergency.

(3) An environmental health practitioner may –

- (a) exercise on such premises or land any of the powers mentioned in section 65; or
- (b) be accompanied by assistants, vehicles, vessels, materials, equipment or things that are necessary for the purpose of –
  - (i) gaining entry to or carrying out the search on such premises or land; or
  - (ii) exercising any of the powers referred to in paragraph (a).

### **33. Offences relating to environmental health practitioner**

A person commits an offence if he or she –

- (a) hinders or interferes with an environmental health practitioner in the execution of that practitioner's official duties;
- (b) falsely professes to be an environmental health practitioner, or the interpreter or assistant of such a practitioner;
- (c) furnishes false or misleading information when complying with a request of an environmental health practitioner; or
- (d) fails to comply with a request of an environmental health practitioner.

## **CHAPTER 9 ENFORCEMENT**

### **34. Approval of measures and materials:**

- (1) The municipality may approve any object or material used or any measure taken in specified circumstances as being adequate to eliminate the risk of any environmental health hazard or environmental health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the municipality.

- (2) An object, material or measure referred to in subsection (1) may be approved by the municipality in –
  - (a) a permit; or
  - (b) guidelines prescribed by the municipality in terms of subsection (3).
  
- (3) The municipality may publish guidelines in the Provincial Gazette which describe –
  - (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any environmental health hazard or environmental health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the municipality; and
  - (b) the circumstances in which taking these measures or using these materials or objects are acceptable to the municipality.

### **35. Application for permit**

- (1) A person who wishes to obtain a permit must, before he or she undertakes the relevant activity, apply to the municipality in writing in a form stipulated by the municipality.
  
- (2) Before the municipality issues a permit, the environmental health practitioner –
  - (a) must inspect the relevant premises as soon as reasonably possible;
  - (b) must, where applicable, ensure that any persons in the vicinity of the premises have been consulted and have had an opportunity to make representations; and
  - (c) may request the applicant to provide any further information which the municipality may consider to be relevant to make a properly informed decision.
  
- (3) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains the following particulars in respect of an application for a permit that was approved:
  - (a) The application which was made to the municipality;
  - (b) the name and address of the applicant;
  - (c) the date of the application;
  - (d) the decision of the municipality;

- (e) the prescribed fee that was paid; and
- (f) the conditions contemplated for such a permit

**36. General terms applicable to permits:**

- (1) A permit –
  - (a) is not transferable from one person to another;
  - (b) applies only to the premises specified in the permit; and
  - (c) must –
    - (i) specify the address and other relevant details regarding the location of the premises concerned;
    - (ii) describe the premises and activity concerned;
    - (iii) specify the terms and conditions, if any; and
    - (iv) indicate when it expires.
- (2) The municipality may charge the applicant a prescribed fee for considering and granting the permit.
- (3) The municipality may refuse to consider an application until –
  - (a) it has been provided with the all the necessary information ragerding such application and
  - (b) the prescribed fee, if any, has been paid.

**37. Suspension, cancellation and amendment of permit:**

- (1) The municipality may, by written notice to the holder of a permit, suspend, amend or cancel the permit.
- (2) The environmental health practitioner may suspend or cancel a permit –
  - (a) with immediate effect if –
    - (i) he or she reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to environmental health posed by an environmental health hazard or an environmental health nuisance; or

- (ii) the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.
- (b) after giving the holder a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if –
  - (i) he or she reasonably believes that it is desirable to do so to eliminate or reduce the risk to environmental health posed by an environmental health hazard or an environmental health nuisance; or
  - (ii) the holder of the permit or certificate fails to comply with a compliance notice.
- (3) The municipality may amend a permit by endorsing it or by written notice to the holder, if he or she reasonably believes that it is necessary to do so to protect environmental health or to take account of changed circumstances since the permit or exemption certificate was issued.

**38. Notice of compliance and representations:**

- (1) Where a person fails to comply with a requirement relating to premises, the municipality may serve a notice of compliance on the person, which notice must state –
  - (a) the name and residential or postal address of the affected person;
  - (b) the requirement which has not been complied with;
  - (c) in detail the measures required to remedy the situation;
  - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
  - (e) 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 these By-laws, the nature of the non-compliance, and other relevant factors.

- (3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any fines which may be imposed under section 80, act in terms of subsection (5).
- (4)(a) Representations not lodged within the time contemplated in subsection (1) (e) 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 80, 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 76.

**39. Prohibition notice:**

- (1) a municipality may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:
  - (a) The owner or occupier of the premises if the municipality reasonably believes that the premises are being used for a purpose or in a manner that is causing an environmental health hazard or an environmental health nuisance;
  - (b) any person who is carrying on an activity or using premises for a purpose or in a manner that the municipality reasonably believes is causing an environmental health hazard or an environmental health nuisance; or
  - (c) 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 environmental health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- (2) A prohibition notice must state –
  - (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;
  - (d) the possible consequences of failing to comply with the notice; and
  - (e) 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 municipality must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- (6) It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
  - (a) he 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).

**40. 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 person on whom the prohibition notice was served or that person's agent 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.

**41. Municipal remedial work:**

- (1) The municipality may enter any premises and may conduct an environmental health investigation on the premises that it reasonably considers necessary –
  - (a) to ensure compliance with these By-laws or with a compliance notice or prohibition notice;
  - (b) to eliminate or reduce an environmental health nuisance; or
  - (c) to eliminate or reduce a significant environmental health hazard.

- (2) The municipality may enter and execute work on or conduct inspections of premises –
  - (a) where a compliance notice relating to the premises has been issued in terms of section 72, and the purpose of the inspection is to determine whether or not the notice has been complied with;
  - (b) where the owner or occupier of the premises has failed to comply with a compliance notice that was issued in terms of section 72, or a prohibition notice that was issued in terms of section 73, directing that relevant measures be taken; or
  - (c) the environmental health practitioner has reasonable grounds to believe that an environmental health hazard or environmental health nuisance, which is likely to endanger environmental health, exists on the premises.
- (3) 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.
- (4) 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.
- (5) 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.

#### **42. Costs:**

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 112, the municipality may, subject to



subsection (3) recover, as a debt, and in accordance with municipality's debt collection regulations, all costs incurred as a result of it acting in terms hereof 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.
  - (4) The municipal manager may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.
  - (5) Any person in receipt of such a costs order shall be entitled to object to the charging or amount of the said costs order by way of notice to the issuing officer specifying his or her objections. The objection shall then be adjudicated upon by the Chief Financial Officer who will make a decision and communicate this to the Municipal Manager.
  - (6) Any costs charged to any person can also include legal costs required in the process of enforcement.

**CHAPTER 10**  
**MISCELLANEOUS PROVISIONS**

**43. 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 these By-laws, 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 80, 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 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 these By-laws an allegation in the charge concerned that any place was situate 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 these By-laws the accused is deemed to know the provisions of these By-laws 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.

**44. Authentication and service of notices and other documents:**

- (1) Where in the opinion of an environmental health practitioner a condition has arisen in its area of jurisdiction which is of such nature as to be offensive or a danger to health unless immediately remedied, he or she may serve a written notice on the person responsible for such condition having arisen or on the occupier or owner of the premises on which such condition exists, calling upon him or her to remedy the condition within such period as may be specified in such notice
- (2) A notice issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by the environmental health practitioner.
- (3) Any notice or other document that is served on a person in terms of these By-laws 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.
- (4) Service of a copy is deemed to be service of the original.

- (5) 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.

#### **45. Appeal:**

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

#### **46. Co-operation between municipalities**

- (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 these By-laws;
  - (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.
- (2) The provisions of these By-laws are applicable to the jurisdictional area of the Chris Hani District Municipality, including the District Management Area.

**47. Liaison forums in community:**

- (1) The municipality may establish liaison forums in a community for the purposes of -
- (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the implementation and enforcement of these by-laws; and
  - (c) 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 an environmental health hazard or environmental health nuisance occurs or may occur;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for Municipal Health Services.
- (3) The municipality may, in the implementation and enforcement of these by-laws, or when considering an application for a permit or consent in terms of these by-laws –

- (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, in pursuance of the aim of section 69 (2) (c), and having regard to the provisions of section 31 of the National Environmental Management Act, 1998 (Act 107 of 998) submit an input to the municipality for consideration.

#### **48. Repeal:**

The existing by-laws are hereby repealed: all by-laws of both district **and region** that relate to the aspects covered in this by-law.

#### **49. Offences and penalties:**

- (1) A person is guilty of an offence under these by-laws if he or she, in respect of an official of the Municipality duly authorised under these by-laws or by the Municipality to enter and inspect any premises –
- (a) denies the official entry to the premises or causes or permits any other person to deny the official entry;
  - (b) obstructs or hinders the official in the performance of the official's duties or causes or permits any other person to so obstruct or hinder the official;
  - (c) fails or refuses to give the official information that he or she is lawfully required to give or causes or permits any other person to refuse to give the official such information; or
  - (d) knowingly gives the official false or misleading information or causes or permits any other person to give the official such information.
- (2) A person is guilty of an offence under these by-laws if he or she fails or refuses to comply with any provision of these by-laws or any requirement imposed by the Environmental Health Practitioner.
- (3) A person who is guilty of an offence under these by-laws is liable on conviction to a fine not exceeding R20 000,00, to community service or

to imprisonment for a period not exceeding one year, or both such fine and such community service or such imprisonment for a period not exceeding R20 000,00 to community service or to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment in respect of every day or part of a day during which the offence continues.

**50. Short title and commencement:**

These By-laws are called the Chris Hani District Municipality: Municipal Health By-law and will take effect on the date of publication hereof in the *Provincial Gazette*

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