

**ITEM TO COUNCIL ON AMENDED BY-LAWS GOVERNING DIRECTORATE
COMMUNITY DEVELOPMENT** **(LJ/lm)**

1. STRATEGIC THRUST

The Rustenburg Local Municipality has adopted the strategic priority for the efficient provision of quality basic services and infrastructure within a well planned spatial structure with the objective to improve public amenities.

2. PURPOSE OF THE REPORT

The purpose of the report is to seek Council approval on the amendment effected to the by-laws governing the Directorate Community Development.

3. EXECUTIVE SUMMARY

The Directorate Community Development requests Council's approval on the amended by-laws applicable to the Directorate Community Development. The request is based on the findings that the by-laws in question to some extent hinder the objective to attain the required income budget. An example is listed below:

- ✓ The community members are not able to fully access; utilize and enjoy facilities like swimming pools and public parks to their satisfaction as these by-laws are quite restrictive in nature.

4. FINANCIAL IMPLICATIONS

Repealing and or amendments of the said by-laws with regards to Parks and swimming pools will help enhance the financial income to the Rustenburg Local Municipality.

5. COMMENTS FROM LEGAL AND VALUATION

RE: LEGAL COMMENTS: REVISION OF THE BY LAWS ON CEMETERIES No. 8 OF 2005

INTRODUCTION

The Directorate Community Development has requested the Unit: Legal and Valuation to provide with an advice as to how to promulgate this by law in terms of the applicable legislation.

DISCUSSION

Due to the reason that the said Directorate have already prepared a report on the revision of the by law, it is advisable that the Council should first adopt the draft by laws subject to the process of public participation. In other words, it is imperative that the public participation process should be conducted through the office of the Speaker. The purpose is to encourage the members of public to participate by way of providing their comments or objections within a period of not less than 14 days to the Municipality (Acting Director Community Development)

In the case, there are objections to the Bylaws; those objections should be tabled before the Council for consideration and approval. After the approval of the bylaws, the last step is for the provincial gazetting of the by law in order to assume the force of law.

6. RECOMMENDATIONS

ACTION

6.1. The Council take note of the report

DCD

6.2. That Legal and Valuations ensures that the amended by-laws are publicized and are fully subjected to public comments

DCD/OMM

BY-LAWS RELATING TO PUBLIC CEMETERIES

RUSTENBURG LOCAL MUNICIPALITY (No. 8 of 2005)



The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Public Cemeteries which shall come into operation on the date of publication thereof.

[1] In these by-laws:

"adult" where the word is used to describe a body, means any deceased person over the age 12 whose coffin will fit into the grave opening prescribed for adults in section 7[2]:

"ashes" means the cremated remains of a body;

"body" means any human dead body including the body of any stillborn child;

"burial order" means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992)

"caretaker" means a person or official appointed by a municipality to be in charge of and to exercise control in or over a cemetery;

"burial" shall mean burial in earth or any other form of interment and shall include any other mode of disposal of a body;

"cemetery" means a piece of land duly set aside and demarcated by the municipality on an official plan for human burials, either within or outside the area of the municipality;

"child" where the word is used to describe a body, means any deceased person of the age of 12 years or under and whose coffin will fit into the grave opening prescribed for children in section 7[2];

“garden of remembrance” means a section of a cemetery set aside by the Municipality for the erection of memorial work to commemorate a deceased person whose body was cremated and for the placing of ashes;

"grave" means a demarcated plot for the burial of a body in a cemetery.

“beam/garden section” means a cemetery or section set aside by the Municipality where memorial work is restricted to a headstone only;

“medical officer of health” shall mean the officer appointed by the Municipality or any person acting in the capacity of medical officer of health;

“monumental section” means a cemetery or section of a cemetery which is not a beam section;

“memorial wall” means a wall in a crematorium section provided for the placement of inscribed tablets commemorating deceased persons who have been cremated;

"memorial work" means any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected on any grave to commemorate a deceased person and includes a kerb demarcating any grave;

"municipality" means the Municipality of Rustenburg and includes the council of the municipality and any duly authorized committee or official of the municipality;

“name” shall include any identifying description of a deceased human being who possessed no name or whose name is unknown at time of death;

“non-resident” means a person who at the time of his death was not a resident of the RustenburgLocalMunicipality;

“officer-in-charge” means any person authorized by the Municipality to be in control of any cemetery;

“plot” means a piece of land in a cemetery. **No grave can be purchased before the person to be buried has died and in such a case only one additional adjacent grave or niche will be made available to the surviving spouse on payment of the determined charges;**

“register of deaths” means any person appointed as registrar or assistant registrar of death in terms of National legislation or any person fulfilling the description of such registrar;

“regulation” means a regulation published in terms of National or Provincial legislation;

“indigent person” means a person who has died in indigent circumstances, or if no relative or other person can be found to bear the burial costs of such deceased person. The onus of proof of being indigent rests with the applicant;

“normal operational working hours” means Monday to Sunday 07:00 to 16:00 excluding public holidays;

“office hours” means Monday to Friday 07:30 to 16:00 excluding Saturdays, Sundays and public holidays;

“holder of private rights” means the person or persons referred to in Chapter 3, Section 7 thereof;

“urn” means a place where the cremated remains of a deceased can be placed.

“pauper” means a person who has died as an unknown person or if no relative or other person can be found to bear the burial or cremation costs of such deceased person;

“municipal manager” means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person -

[a] acting in such position; and

[b] to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

“non-resident” means any person who at the time of his or her death was not a resident of the municipality.

“resident” means a person who, at the time of death, is ordinarily resident within the municipality or any person who, at the time of death, shall have been the owner or fixed property within the municipality for a period of at least six months immediately prior to death: provided that unless otherwise provided herein, the term does not include inmates of hospitals, institutions or other persons temporarily resident within the municipality.

“tariff” means the charges as determined by the Council of the municipality from time to time in terms of these by-laws;

[2] The municipality may set aside any portion of a cemetery for the burial of the deceased of any religious group or other

body or community; provided that:

[a] "religious group" shall not be construed as being a denomination, and

[b] such setting aside shall not entitle any person to be buried in any particular place in a cemetery.

[3]

[1] The municipality may sell or otherwise dispose of the right of burial in plots on such conditions as it may determine from time to time, and shall issue the person thus acquiring such right with a certificate setting out the conditions attaching to such acquisition.

[2] The holder of a right of burial shall not dispose of such right except with the written permission of the municipality, and such holder or his/her next of kin shall not permit any other person who has not been approved by the municipality to be buried in the plot in respect of which such right exists.

[4]

[1] No person shall bury a body in a cemetery:-

[a] except under the authority of a written permit issued by the caretaker; or

[b] otherwise than in accordance with the conditions specified in such permit.

[2] An application for the permit referred to in subsection (1) shall be accompanied by the burial order issued in accordance with the Births and Deaths Registration Act, 1992 (Act 51 of 1992), and shall contain such information as may be required by the caretaker.

[5] Except with the permission of the caretaker who shall record the circumstances under which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.

[6] No person shall:

[a] bury a body, unless the grave is of sufficient depth so that the top of the body, or, if contained in a coffin or container, the top of the coffin or container is not less than 1 050 mm below the surface of the ground when the grave has been filled up;

[b] bury more than one body in a grave, unless the grave has

been dug to a sufficient depth so that subsection (a) may be complied with and so that the first body or, if such body is in a coffin or container, such coffin or container may be covered with 100 mm of reinforced concrete or 300 mm of soil when the second body is buried, or

[c] remove a body from a grave in order to enlarge such grave.

[7]

[1] The standard measurements for burial plots shall be determined by the municipality.

[2] The standard measurements for graves shall be as follows:

[a] Adults:

Length: 2 200 mm

Width : 1 200 mm

Depth : 1 800 mm.

[b] Children:

Length: 1 350 mm

Width: 600 mm

Depth: 1 500 mm

[8]

[1] No person shall open a grave or exhume or cause a body to be exhumed from a grave :

[a] except under the authority of a written permit which may be issued by the municipality; or

[b] otherwise than in accordance with the conditions specified in such permit.

[2] Whenever a municipality deems it advisable that a body be removed from a grave, it may, after consultation, if possible, with any near relative of such deceased person and, with the approval of the MEC for Housing and Local Government or other competent authority, remove such body to another grave.

[9]

[1] No person shall erect or place any kerb, tombstone, monument, railing or fence or any ornamentation upon a grave:

[a] except under the authority set out in a written permit issued by the caretaker;

[b] otherwise than in accordance with the conditions set out in such permit, or

[c] in such a manner as to exceed the boundaries of a burial plot.

[2] The size (outer dimensions) of any erections on burial plots shall not exceed the following measurements:

[a] Adults:

[i] Single burial plot: 2 500 mm x 1 250 mm; (exceptional cases will be accommodated subject to the approval of the cemetery manager)

[ii] Double burial plot: the size of two single burial plots;

[iii] Family burial plot: the appropriate multiple of a single burial plot;

[iv] Width of kerb: 150 mm;

[v] Tombstones shall not be higher than 1 600 mm above the surface of the ground.

[b] Children:

[i] Single burial plot: 1 500 mm x 1 000 mm;

[ii] Width of kerb: 150 mm;

[iii] Tombstones shall not be higher than 1 200 mm above the surface of the ground.

[3] An application for a permit referred to in subsection (1) shall contain such details as may be required by the municipality in respect of the erection concerned and the inscription to be placed thereon, and the municipality may refuse to issue such permit if, in its opinion, such erection is likely to be of poor craftsmanship or quality or is likely in any way to disfigure a cemetery or is calculated to hurt or offend the feelings of the public.

[10] No person shall:

[a] use any portion of a cemetery for the cutting, dressing and manufacturing of tombstones, monuments, railings, kerbs or other grave fittings except with the permission of the municipality or otherwise than in accordance with the

conditions determined by the municipality;

[b] carry out any work in connection with any kerb, tombstone, monument, railings or fence on or round a grave or bring any materials into a cemetery for the purposes of such work, except during the following hours:

Mondays to Saturdays (excluding public holidays): Sunrise to sunset, or

[c] at any time leave any building sand, stones, builders' rubble, soil, rubbish or other debris in the cemetery.

[11]

[1] Whenever the person who erected a memorial work in a cemetery allows it to fall into such state of disrepair as in the opinion of the municipality constitutes a danger or a disfigurement in the cemetery, the municipality may by written notice require him or her to effect such repairs as may be specified in such notice, and if his or her address is unknown, such notice may be published in a newspaper circulating within the area of such municipality.

[2] In the event of the required repairs not being effected within three months from the service or publication of such notice, the municipality may itself effect the repairs or remove the memorial work without paying compensation and may recover the expense of such repair or removal from such person.

[12]

[1] The holder of the right of burial in a plot in a cemetery shall keep that plot and the monuments, tombstones or other erections thereon in good order and repair.

[2] The municipality may undertake the upkeep of graves at the prescribed tariff.

[3] No person shall undertake the upkeep of graves in a cemetery except with the written consent of the municipality.

[13]

[1] No person shall

[a] plant a tree or shrub on a grave site without the permission of the caretaker; or

[b] when cleaning a grave plot, deposit the material cleared from the grave, in the cemetery at a place other than that provided for such purpose.

[2] The caretaker or his authorized assistant may prune, cut down, dig up or remove any shrub, plant or flower in a

cemetery if such is in his opinion unsightly.

[14] No person shall:

- [a]** enter or leave a cemetery except by the proper gates;
- [b]** sit, stand or climb upon or over a memorial work, gate, wall, fence or building in a cemetery;
- [c]** drive a hearse in a cemetery except upon the carriage ways provided for that purpose;
- [d]** enter a cemetery
 - [i]** with or on a bicycle; or
 - [ii]** in any other vehicle without the permission of the caretaker;
- [e]** conduct a religious ceremony or service according to the rites of any denomination in that part of a cemetery set aside for members of any other denomination;
- [f]** expose or convey a body in an unseemly manner in a street, cemetery or other public place;
- [g]** mark, draw, scribble or erect an advertisement upon, or in any way deface a wall, building, fence, gate, memorial work or other erection in a cemetery;
- [h]** pick flowers in a cemetery;
- [i]** smoke in a cemetery;
- [j]** bring an animal into a cemetery;
- [k]** hold a demonstration or participate in such demonstration in a cemetery;
- [l]** create or allow to be created a nuisance in a cemetery;
- [m]** disrupt or allow to be disrupted any funeral proceedings in a cemetery, or
- [n]** discharge any fire-arm in a cemetery, except as a salute at a military funeral.
- [o]** use or cause any cemetery to be used for any immoral purpose;
- [p]** bring any dog, cat, fowl or other animal or bird into a cemetery or allow it to wander therein;

[q] trade or hawk goods or services in a cemetery;

[r] drive a permitted vehicle in a cemetery at a speed in excess of 20km/h;

[s] obstruct, resist or oppose the caretaker or any worker employed by the municipality in any cemetery in the course of his or her duty or refuse to comply with any order or request which the caretaker is entitled to make under these by-laws.

[15] The tariffs payable in terms of section 3 (1), as well as all other tariffs payable for burials, exhumations, re-interments or any other services rendered by the municipality in a cemetery or in connection with a funeral, shall from time to time be fixed by a resolution of the Council of the municipality.

[16] The Municipal Manager shall maintain a register of all burial plots disposed of by the municipality in terms of these by-laws and shall record therein the number of each plot in a cemetery which number shall be consecutive, the name of the owner of such plot and its date of purchase. The Municipal Manager shall, furthermore, record in such register details of burials in plots sold by the municipality in terms of these by-laws.

[17] Any person who contravenes or fails to comply with any provision of these by-laws or any instruction or permit issued hereunder shall be guilty of an offence and be liable on conviction to a fine not exceeding R1000 or such higher amount as is determined from time to time by the Minister of Justice as contemplated in section 1(1)(a) of the Adjustment of Fines Act 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[18] Any by-law relating to public cemeteries adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

[19] Interment only in Allotted Grave

Subject to the provisions of these by-laws, no interment shall take place in any grave not allotted by the officer-in-charge.

[20] Private Rights

The below mentioned private rights are applicable to Categories

A and B only, unless stated otherwise.

Private rights in a grave shall give to the holder of such rights and obligations dealt with in these by-laws.

[1] The holder of Private Rights shall include, but shall not be limited to, the following:

(a) The person who purchased the grave or who received the grave as a gift from the original purchaser and whose name appears in the register of the Municipality.

(b) The person who paid the burial fees in respect of the first interment in the grave:.

(c) The person to whom the holder of private rights has transferred his rights to.

(d) The person who has inherited the private rights by means of a testamentary disposition or in the absence thereof, by means of such customary of commonlaw of succession as may be applicable to the original holder of the private rights.

[2] The private rights in a grave shall be freely transferable, but such transfer shall only come into operation once the transfer has been registered by the Municipality.

[3] In the event of a dispute regarding the holder of private rights, the dispute shall be referred to the officer-in-charge for determination thereof.

[4] In the event of the private rights previously vesting in a now deceased person not being transferred or new person filing a claim for such rights, within 5 years of interment, the rights shall revert back to the Municipality.

[21] Subsequent Interment

[1] Not more than two interments may be made in any grave: Provided that a third interment may be made in such grave with the consent of the officer-in-charge if the grave has been deepened as contemplated in Section 10(1)(b).

[2] Any holder of rights desiring to have a body interred in a private grave as a second or third interment in such grave shall –

(a) remove all memorial work on such grave at his own expense and comply with any requirement of the officer-in-charge in respect of such removal;

(b) after compliance with paragraph (a), give at least 48 hours

written notice to the officer-in-charge on the prescribed form of such interment, which period shall be calculated exclusive of any Saturday, Sunday or a public holiday.

[3] The notice referred to in subsection (2) shall be accompanied by written proof of the title of the holder of rights to the grave concerned and after payment of the appropriate charges.

[22] Enlarging of Excavation

[1] (a) If a coffin is too large to be accommodated within the excavation of an adult grave, such excavation may be enlarged to a size which will accommodate the coffin;

(b) a grave may be deepened at the request of an applicant contemplated in section 5 as to permit the interment in such grave of a third body.

[2] If a grave is to be enlarged or deepened as contemplated in Subsection (1), the officer-in-charge shall be notified accordingly, at least 24 hours before the interment, which period shall be calculated exclusive of any Saturday, Sunday or public holiday, and such notice shall be accompanied by payment of the appropriate charge.

[23] Covering of Coffins

[1] There shall be at least 900mm of soil between any coffin and the surface of the ground.

[2] At least 900mm of soil shall be placed over any coffin immediately after interment.

- After interment, the grave must be closed with soil by family / undertaker, except when pre-arranged with cemetery caretaker 48 hrs before.
- Closing of grave by municipal workers will be charged extra.
- Covering of coffins for paupers will be done by the assigned undertaker up to required level

[24] Construction of Coffins

No coffin intended to be placed in a grave shall be constructed of any material other than natural timber or other decomposable material, excluding lead caskets.

[25] Duration of Services

No person shall occupy for more than 60 minutes a cemetery for the purposes of a service or ceremony without the consent of the officer-in-charge.

[26] Care of Graves

Gardening of graves and objects on graves

[1] No person shall garden on any grave in the berm system.

[2] (a) No person shall erect, place or leave upon a grave any object or decoration, except during the first 30 days following the interment there-in in the berm system.

(b) Natural or artificial flowers and the receptacles in which they are contained may be placed on a grave at any time except in the berm system.

(c) The officer-in-charge or any member of his staff may remove natural or artificial flowers and any receptacle placed on a grave, when they become withered, faded or damaged, or when placed on a grave contrary to these by-laws.

(d) The Municipality cannot be held liable for any loss or damage to any object on any grave, as contemplated herein.

[27] Memorial Work

Erection or Re-erection of Memorial Work

[1] No memorial work may be erected on a grave in a pauper section.

[2] No person shall, without the prior written consent of the officer-in-charge, erect any memorial work in any cemetery. Or bring any material into any cemetery for the purpose of erecting any memorial work.

[3] Application for consent in terms of subsection (2) shall be made at least five working days before the proposed date of the erection to the officer-in-charge in the prescribed form.

[4] If any memorial work is removed for additional inscriptions or other alterations thereof, the provisions of subsection (2) shall mutatis mutandis apply.

[5] Save with the permission of the officer-in-charge, no work on any memorial work shall be performed on a Saturday, Sunday or a public holiday, or at any time between the hours of 16:00 and 09:00.

[6] No person shall erect or re-erect any memorial work at any time when the ground upon which such memorial work is to be erected

or re-erected is, in the opinion of the officer-in-charge, in an unsuitable condition. The Municipality shall not be held liable for damage to memorial work resulting from subsiding soil or otherwise.

[7] The person in charge of the erection or re-erection of any memorial work shall produce the written consent referred to in Subsection (2), at the request of the officer-in-charge.

[8] No memorial work or material for use in connection therewith shall be conveyed in any cemetery in such a manner as may damage the roadways, paths or grounds.

[9] Any surplus material, rubbish or rubble resulting from the erection of any memorial work, shall be removed forthwith by the person responsible for such erection immediately on completion of work.

[28] General Requirements for Memorial Work

Any person constructing any memorial work must comply with the following requirements:

(a) Wherever any part of the memorial work is joined to any other Section thereof, copper or galvanized iron pins shall be used as follows:

(i) memorial work up to a height of 500mm, two or more pins at least 5mm thick and 100mm long;

(ii) memorial work 501mm up to height of 1 000mm two or more pins at least 10mm thick and 200mm long;

(iii) memorial work 1 001mm and higher at least two or more pins 20mm thick and 300mm long;

(b) Any part of such memorial which rests upon the ground or any stone or other foundation shall be properly squared and bedded;

(c) No material of uneven thickness or having any corner wanting shall be used;

(d) The undersides of every flat material work and the base of every memorial work shall be sunk at least 50mm below the natural level of the ground;

(e) No border which is more than 225mm above the surface of the ground or more than 200mm deep shall be used without the consent of the Municipality;

(f) All memorial work and border stones shall be securely clamped with round copper or galvanized iron clamps;

- (g) All memorial work up to 150mm in thickness shall be securely attached to the base in an approved manner;
- (h) Any kind of memorial work shall be completed as far as possible before being brought into any cemetery;
- (i) Foot stones shall consist of one solid piece;
- (j) Memorial work shall be constructed or made of a durable material with a life expectancy of at least 25 years;
- (k) No person shall do any work, chiselling or other work upon any memorial work not connected with the fixing of work in its position in the cemetery except where such work is expressly permitted in terms of these by-laws;
- (l) In all cases where any memorial work rests on a base –
- (i) such a memorial work shall have a foundation as prescribed by the official-in-charge;
- (ii) such memorial work shall be set with cement mortar

[29] Unveiling of tombstones

Unveiling of tombstones should be arranged with the caretaker /officer in charge 96 hrs in advance.

[30] Arrival time at cemetery for burial and unveiling of tombstone

No late arrival at the cemetery will be allowed. Arrival for burial / ceremony should not be later than 9:00 during weekends and not later than 15:00 during week days.

[31] Conditions to Rietvlei cemetery

- Graves are head to head to ensure easier maintenance
- No reserved graves due to unavailability of land.
- All graves are dug eight feet to allow dual burials and to safe costs.

Date of commencement

These by-laws commence on the date of publication thereof in the Provincial Gazette.

BY-LAWS RELATING TO OPEN SPACES, PARKS, SIDE WALKS AND GARDENS

RUSTENBURG LOCAL MUNICIPALITY (No. 11 of 2005)



The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to Open Spaces which shall come into operation on the date of publication thereof.

CHAPTER 1 – INTERPRETATION AND FUNDAMENTALS

Definitions

[1] In these by-laws, unless the context indicates otherwise –

“active game” means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

“authorised official” means any official of the Council who has been authorised by the Council to administer, implement, and enforce the provisions of these by-laws;

“conservation public open space” means public open space that is managed by or on behalf of the Council for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

“Council” means –

[a] the municipal council of Rustenburg established in terms of Section 12 of the Municipal Structures Act 1998 as amended or its successors in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No.

32 of 2000] or, where the context so requires, means the Municipality of Rustenburg; or

[b] a service provider in respect of any power, function or duty of the Council as contemplated in paragraph [a], which has been assigned for the purposes of these by-laws to that service provider in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

“designated area” means an area designated by the Council as an area in which an active game or any other activity, which would otherwise be prohibited under Chapter III of these by-laws, may be undertaken;

“enforcement officer” means any peace officer, as defined in the Criminal Procedure Act, 1977 [Act No. 51 of 1977], who is duly appointed by the Council to enforce any provision of these by-laws;

“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;

“environmentally sustainable” means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –

[a] the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;

[b] the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and

[c] legislation intended to protect the environment and human health and safety is complied with;

“local community” means that body of persons comprising –

[a] the residents of the area in which the public open space is situated;

[b] the ratepayers of the area in which the public open space is situated; and;

[c] any civic organisations and non-governmental or private sector organisations or bodies which are involved in local affairs in the area in which the public open space is situated;

“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 117 of 1998];

“municipal property” means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

“notice” means a clear and legible official notice drawn up by the Council in the official languages recognised by the Council and prominently erected in a public open space;

“nuisance” means an unreasonable interference or likely interference with –

[a] the health or well-being of any person;

[b] the use and enjoyment by an owner or occupier of his or her property; or;

[c] the use and enjoyment by a member of the public of a public open space;

“organ of state” means –

[a] any department of State or administration in the national, provincial or local sphere of government; or

[b] any other functionary or institution –

[i] exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996] or a provincial Constitution; or

[ii] exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

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

“prescribed fee” means a fee determined by the Council by resolution in terms of section 10G[7][a][ii] of the Local Government Transition Act, 1993 [Act No. 209 of 1993], or any other applicable legislation;

“printed matter” includes any advertisement, billboard, poster, book, pamphlet or handbill;

“prohibited activity” means any activity or behaviour that is prohibited in terms of Chapter III from being undertaken in a public open space, either completely or without permission in terms of sections 22, 23 or 24;

“public open space” means any land which –

- [a] is owned by an organ of State, or
- [b] over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- [c] is controlled and managed by the Council; and
- [d] is either –
 - [i] set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
 - [ii] predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

“public utility public open space” means public open space that is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

“recreational public open space” means public open space that is managed by or on behalf of the Council for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

“road reserve” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

“service provider” means a person or institution or any combination of persons and institutions which provide a municipal service in terms of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

“**special event**” means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

“**urban agricultural public open space**” means public open space that is managed by or on behalf of the Council for urban agricultural purposes;

“**vehicle**” means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children’s pushchairs;

“**waste**” means any substance or article that the owner wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has either been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

“**watercraft**” includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

“**water body**” means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river or wetland.

Application

[2] [1] These by-laws apply to all public open space that fall under the jurisdiction and control of the Council but do not apply to cemeteries.

[2] These by-laws are binding on the State.

Purpose

[3] The purpose of these by-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:

[a] to ensure that the way in which the Council controls, manages and develops public open spaces, parks, side walks and gardens is environmentally sustainable, and is in the long-term interests of the whole community of Rustenburg, including future generations; and

[b] that clearly defines the rights and obligations of the public in relation to public open spaces.

CHAPTER II: MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

Principles

[4] [1] Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –

- [a] the long-term collective interests of the people of Rustenburg Local Municipality and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
 - [b] a long-term perspective, that takes account the interests of future generations, must be adopted; and
 - [c] the interests of other living organisms that depend on public open spaces must be taken into account.
- [2] Public open spaces must be managed in an environmentally sustainable manner.
 - [3] Subject to subsection [5] and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
 - [4] Where necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
 - [5] Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons –
 - [a] if the restriction is authorised by these by-laws or by any other applicable legislation; or
 - [b] in order to achieve the purposes of these by-laws.
 - [6] The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
 - [7] Local communities must be encouraged to use and care for public open spaces in their areas.
 - [8] The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

Application of principles

- [5] The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 [Act 107 of 1998], 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 use of, public open spaces within the Council's jurisdiction; or
- [c]** exercising a public power or function or performing a public duty that is likely to have a significant effect on, or which concerns the use of, public open spaces.

General powers

- [6]** The Council may in relation to any public open space –
 - [a]** designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these by-laws may be undertaken, and erect a prominent notice to this effect at entrances to the designated area;
 - [b]** develop any public open space in accordance with the principles set out in section 4;
 - [c]** erect, construct, establish or demolish municipal property; and
 - [d]** exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of these by-laws relating to the management of public open spaces.

Fees

- [7]** The Council may require members of the public to pay –
 - [a]** a reasonable prescribed fee to use recreational or other facilities that the Council provides within public open spaces;
 - [b]** a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
 - [c]** a prescribed fee for the right to undertake a special event;
 - [d]** a prescribed fee for the right to exclusively use municipal property for a specific period;
 - [e]** a deposit prior to undertaking a prohibited activity;
 - [f]** an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
 - [g]** a prescribed fee for processing applications for permits or letters of permission under these by-laws.

Restricting access

- [8]** The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
 - [a]** to protect any aspect of the environment within a public open space;
 - [b]** to reduce vandalism and the destruction of property;
 - [c]** to improve the administration of a public open space;
 - [d]** to develop a public open space;
 - [e]** to enable a special event that has been permitted in terms of section 0 to proceed; or
 - [f]** to undertake any activity that the Council reasonably considers necessary or appropriate to achieve the purposes of these by-laws.

Procedure when exercising powers

- [9]** If the rights or legitimate expectations of any person will be materially and adversely affected by the Council exercising any power in terms of sections 6, 7 or 8, before exercising the power the Council must –
 - [a]** give notice of the proposed administrative action, which notice must –
 - [i]** be published in the Provincial Gazette and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;
 - [ii]** contain a clear statement of the proposed administrative action;
 - [iii]** invite comments and objections within a specified period; and
 - [iv]** consider the comments and objections received in response to the notice.

Powers of enforcement officers

- [10]** In relation to any public open space, an enforcement officer may –
 - [a]** issue a notice in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
 - [b]** issue a notice under section 21;

- [c]** order any person to leave a public open space if the enforcement officer reasonably believes that that person has not complied with any provision of these by-laws; and
- [d]** exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

Obligations in relation to public open spaces

[11]

[1] The Council must within a public open space, erect any notice required under these by-laws.

[2] In relation to recreational public open spaces, the Council must –

- [a]** ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
- [b]** erect prominently displayed notices at every entrance indicating:
 - [i]** the opening and closing times of that recreational public open space; and;
 - [ii]** any rules made in relation to that recreational public open space.

CHAPTER III: PROHIBITED CONDUCT

Prohibited activities

- [12]** **[1]** Any person who undertakes an activity or behaves in a manner that is prohibited under sections 13 to 20 commits an offence unless the activity or conduct in question –
 - [a]** took place in a designated area within which that activity was allowed;
 - [b]** is authorised in terms of a permission granted or permit issued under sections 22, 23 or 24; or
 - [c]** was deemed to have been authorised by the Council under subsection [2].
- [2]** Subject to subsection [3], a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –
 - [a]** to perform his or her obligations as an employee, agent or subcontractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of this by-law;
 - [b]** to carry out public duties as an employee, agent or subcontractor of an organ of State within a public open space which is subject to a public utility servitude in favour of an organ of State;

- [c]** to fulfil his or her duties as an authorised officer to implement these by-laws;
or
- [d]** to fulfil his or her duties as a peace officer.
- [3]** No person is deemed to have permission to undertake an activity that is prohibited under Section 13 [a], [e] or [f] or an activity that the Council has expressly refused to permit.

General

- [13]** No person shall within a public open space –
 - [a]** act in a manner that is dangerous to life or property;
 - [b]** contravene the provisions of any notice within any public open space;
 - [c]** unlawfully enter a public open space to which access has been restricted in terms of section 8;
 - [d]** cause a nuisance;
 - [e]** behave in an indecent or offensive manner; or
 - [f]** obstruct any authorised official who is exercising a power under these by-laws.

Use

- [14]** No person shall within a public open space –
 - [a]** bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
 - [b]** sail, row, paddle, propel or control any watercraft on any water body;
 - [c]** makelight or otherwise start a fire;
 - [d]** camp or reside in any public open space;
 - [e]** consume, brew, store or sell any alcoholic beverage;
 - [f]** use any sound equipment, including a radio, portable hi-fi or car stereo;
 - [g]** play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
 - [a]** shoot a projectile of any nature; or
 - [b]** ride a horse or bicycle.

Waste

[15] No person shall within a public open space –

- [a]** deposit, dump or discard any waste, unless in a receptacle provided by the Council for that purpose; or
- [b]** pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

Vehicles

[16] No person shall within a public open space –

- [a]** except at times and on roads or pathways prescribed by the Council, drive, draw or propel any vehicle;
- [b]** drive, draw or propel a vehicle in excess of 5 kilometres per hour; or
- [c]** park a vehicle in a public open space.

Animals and vegetation

[17] **[1]** Subject to subsection [2], no person shall within a public open space –

- [a]** disturb, damage, destroy or remove any vegetation;
- [b]** plant any vegetation;
- [c]** alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
- [d]** capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
- [e]** disturb, damage or destroy any bird nest or eggs;
- [f]** walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
- [g]** affix or place on any tree any printed matter.

[2] The provisions of subsections [1][a] and [b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

Municipal property and erection of structures

[18] **[1]** Subject to subsection [2], no person shall within a public open space-

- [a]** deface, damage, destroy or remove any municipal property;
 - [b]** disturb the surface of any land, whether by digging or undertaking any earthworks;
 - [c]** erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - [d]** affix or place on any municipal property, or distribute, any printed matter; or
 - [e]** plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space.
- [2]** The provisions of subsection [1][b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

Selling and special events

- [19] [1]** No person shall within a public open space –
- [a]** use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or;
 - [b]** sell, hawk, offer or display any goods or articles for sale or hire;
- [2]** No person may undertake a special event, except in terms of a permit issued in terms of section 0.

Community service

- [20]** No person shall within a public open space undertake any community or voluntary work of any description.

Restoration or removal notices

- [21] [1]** Unless permission or a permit to do so has been obtained under sections 21, 23 or 24, an enforcement officer may issue a restoration or removal notice to any person who has directly or indirectly in a public open space –
- [a]** damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;

- [b] erected, built or assembled a structure; or
- [c] dumped, discarded or deposited any waste, unless in a receptacle provided by the Council for that purpose.
- [2] The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action:
 - [a] to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
 - [b] to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

CHAPTER IV: APPLICATIONS FOR AUTHORISATION

Application	for	permission
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- [22] [1]Any person who wants to undertake a prohibited activity must apply in writing to the Council for permission to do so.
- [2] The Council may, after receiving an application, request the applicant to provide additional information which the Council reasonably requires in order to consider the application.
- [3] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.
- [4] Subject to subsections [2] and [3], the Council must consider the application within a reasonable time and must either:
 - [a] refuse the application; or
 - [b] grant permission in writing subject to whatever conditions the Council considers appropriate to best achieve the purposes of these by-laws, which may include payment of a deposit and/or a fee.
- [5] The Council must not grant permission for any person to behave in a manner that is prohibited under section 13[1][a], [e] or [f].

Application for a special event permit

- [23] [1]An application for permission to hold a special event in a public openspace must be made at least three weeks before the proposed date of the special event.
- [2] The time period referred to in subsection [1] may be reduced on good cause at the Council's discretion.
- [3] The application must contain the following information –

- [a]** the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b]** the nature and purpose of the special event;
 - [c]** the intended route or area proposed to be used by the special event; and,
 - [d]** the permissions, if any, required under Chapter III of these By-laws.
- [4]** Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

Application for permission to farm in an urban agricultural public openspace

[24] **[1]**An application for permission to farm in an urban agricultural public open space must contain the following information –

- [a]** the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
- [b]** the nature of the agricultural activity that the applicant proposes to undertake; and
- [c]** the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.

[2] A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.

[3] The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

CHAPTER V: CO-OPERATIVE MANAGEMENT AGREEMENTS

[25]

[1] The Council may enter into a written agreement with any organ of State, local community or organization to provide for –

- [a]** the co-operative development of any public space; or
- [b]** the co-operative management of any public open space; and

- [c] the regulation of human activities within a public open space.
- [2] The Council shall not enter into a co-management agreement in relation to a public open space unless it is reasonably believed that entering into the co-management agreement will promote the purpose of these by-laws.
- [3] The Council must monitor the effectiveness of the co-management agreement in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the co-management agreement is not effective, or is inhibiting the attainment of the purpose of these by-laws.

CHAPTER VI: TREE PRESERVATION ORDERS

General

[26]

[1] If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.

[2] A tree preservation order:

[a] must indicate the tree or trees to which it relates; and

[b] may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.

[3] The Council must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.

Procedure

[27] Unless, in the Council's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order under section 26 –

[a] give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;

[b] notify any affected organs of State; and

[c] consider the comments and objections received in response to the notice.

CHAPTER VII: APPEALS

[28]

[1] A person whose rights are affected by a decision taken by any authorised official under 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 municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].

[3] The appeal authority 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.

[4] An appeal submitted in terms of this section shall be dealt with in the manner prescribed by Section 62 of the Municipal Systems Act 32/2000.

[4] CHAPTER VIII: GENERAL PROVISIONS

Offences and penalties

[29] [1] Any person who –

[a] contravenes or fails to comply with any provisions of these By-laws;

[b] fails to comply with any notice issued in terms of these by-laws;

[c] fails to comply with any lawful instruction given in terms of these by-laws; or

[d] obstructs or hinders any authorised official in the execution of his or her duties under these by-laws is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

Repeal

[30] Any by-law relating to open spaces, parks and/or gardens adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

[31] Operating hours

The operating hours for developed open spaces (parks) shall be as follows:

- 10:00 – 18:30 during summer months
- 10:00 – 17:30 during winter months

Packages for Private functions after hours (18h00 – 24h00) at all municipal Parks charging entrance fees

Category A

Use by schools, churches and welfare organizations = R350,00 rental per event per organization

Category B

Birthday parties, staff parties and other private parties = R1000.00 rental per event per day

Category C

Music Festival/Arts and Culture festivals= R5000.00 rental per event per day

Category D

Filming at Municipal Parks including civic centre garden

Commercial filming = R7000,00 per full day

Non-commercial filming = R3500,00 per full day

Wedding Functions

Booking for wedding pictures at Municipal Parks including civic centre garden

= R250,00 per full day

Blessing of rings at the civic centre garden (one hour only) = R250,00

Date of commencement

These by-laws commence on the date of publication thereof in the Provincial Gazette.

BY-LAWS RELATING TO SWIMMING POOLS AND SPA-BATHS

RUSTENBURG LOCAL MUNICIPALITY (No. 10 of 2005)



The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to Swimming Pools and Spa-Baths which shall come into operation on the date of publication thereof.

Definitions

[1] In these by-laws, unless the context indicates otherwise –

“authorized official” means an official of the Council or the official of another municipality or another organ of state with which the Council has concluded an agreement for the rendering of services in terms of these by-laws and to whom the Council has delegated a duty, function or power under these by-laws;

“Council” means the Council of the Municipality or any committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws:

“spa-bath” means a structure constructed of an approved material, provided with controlled circulating water supply and used for bathing;

“spa-bath keeper” means any person who owns or controls the operation of a spa-bath;

“swimming pool” means a structure with a controlled water supply used for swimming or bathing, including children's swimming and paddling pools, but excluding a tidal swimming pool or a swimming pool at a private home that is not used for commercial purposes;

“swimming pool keeper” means any person who owns or controls the operation of a swimming pool.

Requirements for premises

- [2]** No person may operate a swimming pool or spa bath in or on any premises that do not comply with the following requirements –
- [a]** separate and readily accessible change-rooms, showers and toilet facilities must be provided for each sex in compliance with the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
 - [b]** every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
 - [c]** the surface of the floor area surrounding the spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
 - [d]** an approved chemical gas mask must be provided at the chlorinator installation;
 - [f]** if notified in writing by an authorized official in writing, a prescribed oxygen or air breathing apparatus must be provided; and
 - [g]** an adequate number of refuse receptacles must be provided on the premises.

Duties of the spa-bath keeper

- [3]** Every spa-bath keeper must –
- [a]** keep the premises in a safe, clean and sanitary condition and in good repair at all times;
 - [b]** provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
 - [c]** purify, treat and maintain the spa-bath water quality to an adequate level at all times;
 - [d]** provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
 - [e]** be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
 - [f]** maintain a daily record of the spa-bath water quality.

Duties of the swimming pool keeper

- [4]** Every swimming pool keeper must –
- [a]** keep the premises in a safe, clean and sanitary condition at all times;

- [b]** provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- [c]** be qualified and proficient in life saving, the rendering of first aid, the use of resuscitation appliances, the operation of the swimming pool as well as the testing and maintenance of the safety of the water;
- [d]** ensure that the water is purified, treated and maintained to an adequate quality at all times;
- [e]** provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- [f]** be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- [g]** maintain a daily record of the spa-bath water quality.

Water supply

- [5]** No person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the level in a swimming pool or spa-bath.
- [6]** An authorized official must –
 - [a]** take samples of the swimming pool or spa-bath water, at intervals that he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination;
 - [b]** submit the samples to an analyst authorized in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972) to conduct an analysis.

Safety of water

- [7]** Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:
 - [a]** it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders or steps and gutters must be free from slime and algae;
 - [b]** the pH value of the water must be not less than 7 and not greater than 8;
 - [c]** where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;

- [d] where a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of subparagraph (c);
- [e] the total viable bacteriological count of any sample submitted for analysis must not exceed 100 organisms per ml of water; and
- [f] Escherichia coli type 1 bacteria must not be present in any 100 ml of water.

[8]Maximum number of visitors

[1] The municipality may determine the maximum number of visitors who may be present at a specific time in or at a public swimming pool;

[2] The number contemplated in subsection [1] shall be made known by the municipality by means of a notice.

[3]Admission to a public swimming pool

[1] A public swimming pool is, subject to the provisions of these by-laws, open to the public during the times determined by the municipality and made known in a notice;

[2] No visitor shall enter or leave a public swimming pool at a place other than that indicated for that purpose.

[4]Entrance fees

[1] A visitor to a public swimming pool shall pay entrance fees determined from time to time by the municipality and such entrance fees shall be made known by means of a notice.

[2] Different entrance fees may be determined in respect of visitors of different ages and the municipality may exempt certain groups of persons from the payment of an entrance fee.

[9] Nuisances

No person shall perform or permit any of the following acts in or at a public amenity –

[a] the use of language or the performance of any other act which disturbs the good order;

[b] the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults without the municipality's written consent;

[c]the burning of rubble or refuse;

[d]the causing of unpleasant or offensive smells;

[e]the production of smoke nuisances;

[f]the causing of disturbances by fighting, shouting, arguing, singing or the playing of musical instruments; or by the use of loudspeakers, radio reception devices, television sets, or similar equipment;

[g]the begging for money, food, work or the offering of services, or

[h] in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.

[10] Health matters

No person shall in or at a public swimming pool –

[a] dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the swimming pool;

[b]pollute or contaminate in any way the water in any bath, swimming-bath, dam, spruit, river or water-course;

[c]enter any bath or swimming bath while suffering from an infectious or contagious disease or having an open wound on his body;

[d]perform any act that may detrimentally affect the health of any visitor to a public swimming pool.

[11]Structures

No person shall without the written consent of the municipality having first been obtained, erect or establish in or on a public amenity any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefore by notice;

[12] Liquor and food

[1] No person shall, contrary to a provision of a notice, bring into a public amenity any alcoholic or any other liquor or any food of whatever nature.

[2] No person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever,

except at places set aside for such purposes by notice; provided that the preparation and cooking of food in or at a public swimming pool shall be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public swimming pool.

[13] Use of public swimming pool

[1] No person shall without the consent of the municipality or contrary to any condition which the municipality may impose when granting such consent –

[a] arrange or present any public entertainment;

[b] collect money or any other goods for charity or any other purpose from the general public;

[c] display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;

[d] arrange, hold or address any meeting;

[e] arrange or hold a public gathering or procession, exhibition or performance;

[f] conduct any trade, occupation or business;

[g] display, sell or rent out or present for sale or rent any wares or articles;

[h] hold an auction;

[i] tell fortunes for compensation;

[2] For the purposes of these by-laws “public gathering or procession” shall mean a procession or gathering of 15 or more persons and which is not regulated by national or provincial legislation.

[14] Safety and order

[1] No person shall, subject to subsection [2], in or at a public swimming pool -

[a] damage or disfigure anything within such amenity;

[b] use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;

[c] light a fire or prepare food, except at a place indicated for that

purpose by notice;

[d]throw away any burning or smouldering object;

[e]throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;

[f]pull out, pick or damage any tree, plant, shrub, vegetation or flower;

[g]behave himself in an improper, indecent, unruly, violent or unbecoming manner;

[h]cause a disturbance;

[i]wash, polish or repair a vehicle;

[j] walk, stand, sit or lie in a flower bed;

[k]kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;

[l]walk, stand, sit or lie on grass contrary to the provisions of a notice;

[m]lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;

[n]play or sit on play park equipment, except if the person concerned is a child under the age of 13 years;

[o]swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond;

[2] The municipality may by way of notice and subject to such conditions as the municipality deems necessary and mentioned in a notice, authorize any of the actions contemplated in subsection [1].

[15] Water

No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public swimming pool.

[16] Laundry and crockery

No person may in or at a public swimming pool wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

[17]

Vehicles

[1] No person may bring into a public swimming pool any truck, bus, motorcar, motor cycle, motor tricycle, or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the municipality;

[2] The municipality shall determine the speed limit applicable in a public swimming pool;

[3] The directions contemplated in subsection [1] and the speed limit contemplated in subsection [2] shall be made known by the municipality by way of notice.

Order and behaviour

[18] No person may –

[a] interfere with the spa-bath keeper, swimming pool keeper or any authorized official of the Council in the execution of their duties;

[b] allow any dog or other pet belonging to him or under his care to enter or to remain within the premises;

[c] use any premises where he or she knows or suspects that he or she may suffering from any communicable or contagious disease;
and

[f] urinate, defecate, spit or blow his or her nose in the spa-bath or swimming pool.

Offences and Penalties

[19]

[1] Any person who contravene or fails to comply with any provision of these by-laws or who fails to comply with any notice given in terms of these by-laws shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

[2] Any person who contravenes or fails to comply with a provision of these by-laws, a notice issued in terms of these by-laws or a condition imposed under these by-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, shall be guilty of an offence and liable upon conviction to:

[a] a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and

such imprisonment;

[b]in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and

[c]a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

Repeal of By-Laws

[10] Any by-laws adopted by the Council or the Council of a municipality now forming an administrative unit of the Council and relating to public swimming pools and spa-baths are, from the date of promulgation of these by-laws, hereby repealed.

Date of commencement

Accommodating Separate and Private Activities/Events

Unless otherwise stated; the above mentioned activities shall be accommodated in all municipal swimming pools from 17h00-24h00 when all the general public would have vacated the facility.

Booking for private activities exclude or prohibit learners from all educational institutions

Booking for private functions will only be permitted at Marais Street swimming pool and Middle street swimming pool

Open fires and Consumption of alcohol at the facility

As per by-laws governing open fires; they should however be allowed although under strict supervision by the municipal officials and at a designated braaing area

Reasonable consumption of alcohol shall be permitted at the facilities only for private functions. However; they (users) will have to be restricted from swimming as this would compromise water safety.

In addition; we need to display a notice to the effect that" Rustenburg Local Municipality will not be held liable in an event of death and injury resulting from alcohol abuse".

Rates payable

Such activities or events should be subjected to the payment of a tariff per event. Such payments should be done before the actual event.

An amount not exceeding R 1000 .00 refundable deposit is payable within seven (7) days prior to the event.

Different tariffs are applicable per category and are as follows:

Category A

Birthday parties, staff parties and other private parties = R2000.00 rental per event per day

Category B

Music Festival/Arts and Culture festivals= R5000.00 rental per event per day

Category C

Filming at Municipal Pools

Commercial filming = R7000,00 per full day

Non-commercial filming = R3500,00 per full day

Wedding Functions

Booking for wedding pictures at Municipal Pools

= R250,00 per full day

These by-laws commence on the date of publication thereof in the Provincial Gazette.