



**RAYMOND**  
**MHLABA**  
MUNICIPALITY  
\*\*\*\*\*  
UMANYANO KUPHHLISO

**Municipal Code**



## Municipal Code

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## RAYMOND MHLABA LOCAL MUNICIPALITY:

### CREDIT CONTROL AND DEBT COLLECTION BY-LAW

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality, enacts as follows:-

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1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of credit control and debt collection policy
4. Contents of credit control and debt collection policy
5. Implementation and enforcement of credit control and debt collection policy
6. Offensives and penalties
7. Repeal
8. Short title and commencement

#### 1. Interpretation

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates –

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Customer Care and Revenue Management By-Law**” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Systems Act;

“**municipality**” means the Raymond Mhlaba Local Municipality, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councilor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

“**municipality’s credit control and debt collection policy**” means a credit control and debt collection policy adopted by the municipality;

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

“**credit control and debt collection policy**” means the credit control and debt collection policy as adopted and amended by the municipality from time to time.

#### 2. Principles and Objectives

- (1) In terms of section 96 of the Systems Act, a municipality-
  - (a) must collect all money that is due and payable to it, subject to the Systems Act and any other applicable legislation; and

- (b) for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and complies with the provisions of the Systems Act.
- (2) A credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.
- (3) In terms of section 98 of the Systems Act a municipal council must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement and the by-laws may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

### **3. Adoption and implementation of credit control and debt collection policy**

The municipality must adopt and implement a credit control and debt collection policy in terms of which it collects all money that is due and payable to it.

### **4. Contents of credit control and debt collection policy**

- (1) In terms of section 97 of the Systems Act, a credit control and debt collection policy must provide for-
  - (a) credit control procedures and mechanisms;
  - (b) debt collection procedures and mechanisms;
  - (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
  - (d) realistic targets consistent with-
    - (i) general recognised accounting practices and collection ratios; and
    - (ii) the estimates of income set in the budget less an acceptable provision for bad debts;
  - (e) interest on arrears, where appropriate;
  - (f) extensions of time for payment of accounts;
  - (g) termination of services or the restriction of the provision of services when payments are in arrears;
  - (h) matters relating to unauthorised consumption of services, theft and damages; and
  - (i) any other matters that may be prescribed by regulation.
- (2) The policy may include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

### **5. Implementation and enforcement of credit control and debt collection policy**

Credit control and debt collection shall be implemented and enforced through this by-law, the Customer Care and Revenue Management By-Law and any other enforcement mechanisms determined by the municipality.

### **6. Offences and Penalties**

A person who fails to comply with the provisions of this by-law commits an offence and is on conviction liable to a fine or to imprisonment for a period not exceeding three years.

## 7. Repeal

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 2/2/2006	Nxuba Local Municipality: Credit Control By-law	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: Credit Control and Debt Collection By-law	The whole

## 8. Short title and commencement

This by-law is called the Raymond Mhlaba Local Municipality Credit Control and Debt Collection By-law and will become effective on the date of publication in the Government Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

### RAYMOND MHLABA LOCAL MUNICIPALITY: CREDIT CONTROL AND DEBT COLLECTION BY-LAW: OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of offence	Proposed Fine (Column (1))	Approved Fine Column (2)
6	Failure to comply with the provisions of the Credit Control and Debt Collection By-law, the Customer Care and Revenue Management By-Law and any other enforcement mechanisms determined by the municipality.	No fine. Must appear.	No fine. Must appear
<p>Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:</p> <p><b>Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour</b></p> <p>This determination replaces any previous determination for the said Magisterial District.</p>			

Signed	04/2019
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Magistrate: Middledrift	Date Stamp
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Magistrate: Fort Beaufort	Date Stamp
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Magistrate: Adelaide	Date Stamp
Signed	04/2019
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Magistrate: Bedford	Date Stamp
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Magistrate: Cathcart	Date Stamp
Signed	04/2019
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Magistrate: Alice	Date Stamp
Signed	04/2019
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Magistrate: Seymour	Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY: TARIFF BY-LAW

### By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality, enacts as follows:-

#### Table of Contents

1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of tariff policy
4. Contents of tariff policy
5. Implementation and enforcement of tariff policy
6. Offences and penalties
7. Repeal
8. Short title and commencement

#### 1. Interpretation

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates –

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Customer Care and Revenue Management By-Law**” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Systems Act;

“**municipality**” means the Municipality of Raymond Mhlaba Local, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councilor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

“**municipality’s tariff policy**” means a tariff policy adopted by the municipality;

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

“**tariff**” means fees, charges, or any other tariffs levied by the municipality in respect of any function or service provided by the municipality, excluding rates levied by the municipality in terms of the Local Government: Municipal Property Rates Act, 6 of 2004; and

“**tariff policy**” means the tariff policy as amended by the municipality from time to time.

#### 2. Principles and Objectives

- (1) Section 229(1) of the Constitution authorizes a municipality to impose:
  - (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
  - (b) if authorized by national legislation, other taxes, levies and duties.

- (2) In terms of section 75A of the Systems Act a municipality may:
  - (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
  - (b) recover collection charges and interest on any outstanding amount.
- (3) In terms of section 74(1) of the Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
- (4) In terms of section 75(1) of the Systems Act, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.
- (5) In terms of section 75(2) of the Systems Act, by-laws adopted in terms of subsection 75(1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

### **3. Adoption and implementation of tariff policy**

- (1) The municipality must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
- (2) The municipality will not be entitled to impose tariffs other than in terms of a valid tariff policy.

### **4. Contents of tariff policy**

The tariff policy will, *inter alia*:

- (a) apply to all tariffs imposed by the municipality pursuant to the adoption of the municipality's annual budget;
- (b) reflect the principles referred to in section 74(2) of the Systems Act and specify any further principles for the imposition of tariffs which the municipality may wish to adopt;
- (c) specify the manner in which the principles referred to in section 4(2) are to be implemented in terms of the tariff policy;
- (d) specify the basis of differentiation, if any, for tariff purposes between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination;
- (e) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

### **5. Implementation and enforcement of tariff policy**

- (1) The policy shall apply to all tariffs determined by the municipality during the annual budget process; provided that the municipality may determine tariffs during the course of a financial year when –
  - (a) a new service is introduced;
  - (b) no tariff for an existing service has previously been imposed; or
  - (c) it is necessary to correct a tariff already imposed.

- (2) Payment of tariffs shall be enforced through this by-law, the Credit Control and Debt Collection By-law and any other enforcement mechanisms determined by the municipality.

#### 6. Offences and Penalties

A person who fails to comply with the provisions of this by-law commits an offence and is on conviction liable for the payment of a fine or a term of imprisonment.

#### 7. Repeal

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

#### 8. Short title and commencement

This by-law is called the Raymond Mhlaba Local Municipality Tariff by-law and will become effective on the date of publication in the Government Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

### RAYMOND MHLABA MUNICIPALITY: TARIFFS BY-LAW: OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
6	Failure to comply with the provisions of the Tariff By-Law.	1000	1000
<p>Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:</p> <p><b>Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour</b></p> <p>This determination replaces any previous determination for the said Magisterial District.</p> <p>Signed ..... 04/2019 Magistrate: Middledrift ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Fort Beaufort ..... Date Stamp</p>			

Signed ..... Magistrate: Adelaide	04/2019 ..... Date Stamp
Signed ..... Magistrate: Bedford	04/2019 ..... Date Stamp
Signed ..... Magistrate: Cathcart	04/2019 ..... Date Stamp
Signed ..... Magistrate: Alice	04/2019 ..... Date Stamp
Signed ..... Magistrate: Seymour	04/2019 ..... Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY: PROPERTY RATES BY-LAW

### By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Raymond Mhlaba Local Municipality enacts as follows–

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1. Definitions
2. Principles and Objectives
3. Adoption and implementation of rates policy
4. Contents of rates policy
5. Implementation and enforcement of rates policy
6. Appeal
7. Offences and penalties
8. Repeal of by-laws
9. Short title and commencement

#### 1. Definitions

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates –

“**Constitution**” means the Constitution of the Republic of South Africa 1996;

“**Customer Care and Revenue Management By-Law**” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Municipal Systems Act, 32 of 2000;

“**municipality**” means the Municipality of Raymond Mhlaba Local, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councilor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee;

“**municipality’s rates policy**” means a rates policy adopted by the municipality in terms of this By-Law;

“**Property Rates Act**” means the Local Government: Municipal Property Rates Act, 6 of 2004;

“**rate**” or “**rates**” means a municipal rate on property as envisaged in section 229 of the Constitution; and

“**rates policy**” means the rates policy as adopted and amended by the municipality from time to time.

## **2. Principles and Objectives**

- (1) Section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.
- (2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on Rateable property in the municipality.
- (3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of its rates policy.
- (4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates.

## **3. Adoption and implementation of rates policy**

- (1) The municipality must adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on Rateable property in the municipality.
- (2) The municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

## **4. Contents of rates policy**

The municipality's rates policy shall, *inter alia*:

- (1) apply to all rates levied by the municipality pursuant to the adoption of the municipality's annual budget;
- (2) comply with the requirements for: -
  - (a) the adoption and contents of a rates policy specified in section 3 of the Property Rates Act;
  - (b) the process of community participation specified in section 4 of the Property Rates Act;
  - (c) the annual review of a rates policy specified in section 5 of the Property Rates Act;
- (3) specify any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the municipality may wish to adopt;
- (4) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

## **5. Implementation and enforcement of rates policy**

The municipality's rates policy shall be implemented and enforced through this by-law, the Customer Care and Revenue Management By-Law and any other enforcement mechanisms determined by the municipality.

## **6. Appeal**

A person whose rights are affected by a delegated decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

## 7. Offences and penalties

A person who–

- (a) makes a false application or declaration which will affect the rates payable on any property whether on his or her own behalf or that of someone else;
- (b) refuses or fails to report any amendments to an application or declaration, referred to in paragraph (a), to the municipality after such occurrence; or
- (c) interferes or hinders an official of the municipality in the execution of his or her duties in terms of this by-law, is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years

## 8. Repeal of by-laws

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 2136 dated 15/6/2009	Nxuba Local Municipality: Rates By-law	The whole
P.G. 2151 dated 20/2/2006	Nkonkobe Local Municipality: Property Rates By-law	The whole

## 9. Short title and commencement

This By-law shall be known as the Raymond Mhlaba Local Municipality Property Rates By-law and will become effective on the date of publication. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

### RAYMOND MHLABA MUNICIPALITY: RATES BY-LAW:

#### OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
7(a)	Making a false application or declaration which will affect the rates payable on any property whether on one's own behalf or that of someone else.	500	500
7(b)	Refusing or failing to report any amendments to an application or declaration to the municipality after such occurrence.	500	500
7(c)	Interfering or hindering an official of the municipality in the execution of his or her duties in terms of this by-law.	1000	1000

Hereby certify that the admission of guilt fines listed in Column 2 above as

submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed	04/2019
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Magistrate: Middledrift	Date Stamp
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Magistrate: Fort Beaufort	Date Stamp
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Magistrate: Adelaide	Date Stamp
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Magistrate: Bedford	Date Stamp
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Magistrate: Cathcart	Date Stamp
Signed	04/2019
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Magistrate: Alice	Date Stamp
Signed	04/2019
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Magistrate: Seymour	Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY

### CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAW

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under section 156 of the Constitution of the Republic of South Africa, 1996, section 6 of the Property Rates Act, 2004 (Act 6 of 2004), and section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Raymond Mhlaba Local Municipality, enacts as follows: -

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39. Offences and penalties
40. Repeal of by-laws
41. Short title and commencement

**1. Definitions and interpretation**

For the purposes of this by-law, unless the context otherwise indicates –

**“account holder”** means any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water;

**“annual budget”** means the budget approved by the municipal council for any particular financial year, and includes any adjustments to such budget;

**“applicant”** means a person who applies for the supply of municipal services;

**“availability charge”** means a fixed monthly or annual charge levied against the account holder which is based on the cost for providing a municipal service to the premises of the account holder;

**“billing”** means invoicing on a municipal account to an account holder of an amount or amounts payable for rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;

“**consumer**” means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises, and “**domestic consumer**” or “**domestic user**” of municipal services means the person or household to which municipal services are rendered in respect of residential property;

“**consumer price index**” means the consumer price index (CPIX) as determined and gazetted by the South Bureau of Statistics;

“**Council**” means the Council of the Raymond Mhlaba Local Municipality (or any service provider to the municipality);

“**credit control**” means all the functions relating to the collection of revenue;

“**credit control and indigence policy**” means the credit control and indigence policy as approved by the Raymond Mhlaba Local Municipal Council;

“**customer management**” means the focusing on the account holder’s needs in a responsive and proactive way to encourage payment and thereby limiting the need for enforcement;

“**customer service centre**” means and serves as –

- (a) an office where an applicant may apply for services and enter into a service agreement with the municipality;
- (b) an office where an account holder may settle an account or may make pre-payment for services;
- (c) a credit screening point where the credit assessment of an applicant can be processed; or
- (d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to the municipality and from where the response from the municipality can be conveyed to the account holder;

“**disadvantaged**” means “**indigent**”;

“**due date**” means the date specified as such on a municipal account for any charges payable and which is the last day allowed for the payment of such charges;

“**indigent**” means households with a total gross income that is less than a fixed amount and that comply with any other specific criteria as determined by the Council, from time to time;

“**interest**” means an amount calculated at a rate determined by the municipality on a municipal account in arrears;

“**land reform beneficiary**”, in relation to a property, means a person who –

- (a) acquired the property through the provision of the Land and Assistance Act, 1993, (Act 126 of 1993);
- (b) acquired the property through the provision of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);
- (c) holds the property subject to the Communal Property Associations Act, 1996 (Act 29 of 1996); or
- (d) holds or acquires the property in terms of such other land tenure reform legislation as may be enacted;

“**local community**” or “**community**”, in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;

“**major services**” means those services contemplated in section 17(5);

“**market value**” in relation to a property means the value of the property as determined in accordance with section 46 of the Property Rates Act, 2004 (Act 6 of 2004);

**“minor tariffs”** means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services provided, and includes services incidental to the provision of the major services.

**“month”** means one of 12 months of a calendar year;

**“municipal account”** means an account rendered on which is billed an amount or amounts payable to the municipality for rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation;

**“municipal entity”** means-

- (a) a private company referred to in section 86B (1) (a) of the Municipal systems Act, Act 32 of 2000;
- (b) a service utility; or
- (c) a multi-jurisdictional service utility;

**“municipality”** means the Municipality of Raymond Mhlaba Local, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

**“municipal manager”** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

**“municipal property”** includes a property owned by a municipal entity;

**“multiple purposes”**, in relation to a property, means the use of a property for more than one purpose;

**“municipal service”** means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether-

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 or by engaging an external mechanism contemplated in the said section 76; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

**“municipal tariff”** means a tariff for services which the municipality sets for the provision of a service to the local community, such as a tariff set for major services or a minor tariff, and includes a surcharge on such service;

**“occupier”** means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes –

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

**“officer”** means an employee of the municipality or any other person who is specifically authorised thereto by the municipality to perform any act, function or duty in terms of, or exercise any power under this by-law;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution;

**“owner”** means –

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to –
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to –
  - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivo, Trust mortis cause, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
  - (ii) any Department of State;
  - (iii) any council or Board established in terms of any legislation applicable to the Republic of South Africa; and
  - (iv) any Embassy or other foreign entity; and
- (g) a lessee of municipal property who is deemed to be the owner for the purposes of rendering a municipal account;

**“permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality's town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions;

**“person”** includes a legal person and an organ of state;

**“preferred customer”** means a person who may be granted special concessions by the municipality;

**“poor”** means **“indigent”**;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on –

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 93 of 1986), which is situated within the area of jurisdiction of the municipality;
- (c) and includes any other land and any building or structure above or below the surface of any land;

**“property”** means –

- (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property;

(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, such as a “land reform beneficiary”; and

(d) public service infrastructure;

“**property tax policy**” means the property tax policy as approved by the Raymond Mhlaba Local Municipal Council;

“**publicly controlled**” means owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999), a municipality, or a municipal entity;

“**public service infrastructure**” means publicly controlled infrastructure of the following kinds:

(a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;

(b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;

(c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;

(d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;

(e) railway lines forming part of a national railway system;

(f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;

(g) runways or aprons at national or provincial airports;

(h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;

(i) any other publicly controlled infrastructure as may be prescribed by law; and

(j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

“**rate**” means a municipal rate on property as envisaged in section 229(1)(a) of the Constitution;

“**rateable property**” means property on which the municipality may in terms of section 2 of the Property Rates Act, 2004, levy a rate, but excludes property fully excluded from the levying of rates in terms of section 17 of that Act, but includes any rights registered against such property, with the exception of a mortgage bond;

“**ratepayer**” means a person who is liable to the municipality for the payment of rates on property in the municipality, any other tax, duty or levy imposed by the municipality, or fees for services provided either by the municipality or in terms of a service delivery agreement, or a combination of the above;

“**rebate**”, in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Property Rates Act, 2004 on the amount of the rate payable on the property;

“**residential property**” means a property included in the valuation roll as residential in terms of section 48(2)(b) of the Property Rates Act, 2004;

“**revenue**” means all monies due to the municipality and to which the municipality has the right to exact and to enforce payment of, irrespective of the reason for or the origin of its factuality;

“**sectional title scheme**” means a scheme as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

“**sectional title unit**” means a unit as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

“**state trust land**” means land owned by the state and held in trust for persons communally inhabiting the land in terms of a traditional system of land tenure, over which land tenure rights have been registered or granted, or which is earmarked for disposal in terms of the Restitution of Land Rights, 1994 (Act 22 of 1994);

“**tampering**” means any unauthorised interference with the municipality’s supply, seals and metering equipment and “tamper” has a corresponding meaning;

“**target**” means realistic targets which may be set by the municipality ; and

“**tariffs for major services**” means tariffs set for the supply and consumption or usage of major services;

“**tariff policy**” means the tariff policy as approved by the Raymond Mhlaba Local Municipal Council;

“**unreliable customer**” includes an account holder, who according to his or her payment record fails to settle his or her municipal account by the due date or who is in arrears with payments due to council or who tampers or interferes with metering equipment, seals or the supply of municipal services.

(2) Where the by-law is silent or provides no detail, the detail shall be that which is contained in the relevant policy.

## CHAPTER 1

### CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

#### 2. Customer care principles, and objectives

- (1) The municipality aims –
  - (a) to move progressively towards the social and economic uplift of the community in harmony with its natural environment;
  - (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
  - (c) to engage the active participation of the community in the municipality’s affairs, in particular in planning, service delivery and performance management;
  - (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;
  - (e) to ensure that the municipality is financially and economically viable; and
  - (f) to create a harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties;
- (2) The municipality by this by-law, designs, regulates on and implements a customer care and management system as contemplated in section 95 of the Municipal Systems Act.

#### 3. Municipal manager responsible officer

The Municipal Manager –

- (a) is responsible to the Executive Mayor for the implementation and enforcement of the provisions of this by-law;
- (b) must, for the purposes of paragraph (a) take the necessary steps to implement and enforce the provisions of this by-law;

- (c) is accountable to the Executive Mayor for the agreed performance targets as approved by the municipality and the Executive Mayor, and for these purposes must –
- (i) report to the Executive Mayor on matters relating to this by-law, including but not limited to –
    - (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
    - (bb) billing information, including the number of account holders, accruals, cash-flow, and customer management;
    - (cc) the satisfaction levels of account holders regarding services rendered; and
    - (dd) the effectiveness of the municipality's indigence relief measures; and
  - (ii) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of this by-law; and
  - (iii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder –
    - (aa) any outstanding amounts as may be agreed; or
    - (bb) such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

#### **4. Differentiation between customers and exemption**

- (1) In accordance with the principles embodied in the Constitution and the provisions of sections 6 and 8 of the Property Rates Act, 2004 (Act 6 of 2004) and sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies, categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.
- (2) The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any section of this by-law that may result in –
- (a) the wastage or excessive consumption of water or electricity;
  - (b) the evasion or avoidance of water or electricity restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
  - (f) any Act, or any regulation made under it, not being complied with.
- (3) The municipality or its authorised agent may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

## **CHAPTER 2 SUPPLY OF MUNICIPAL SERVICES**

### **Part 1**

***Application for supply and service agreements, credit screening, deposits, billing and payment, and termination of service agreements***

**5. Application for supply of municipal services and service agreements**

- (1) Any application for any supply of services to any premises must be made at the municipal offices at least four working days, or such lesser period as may be accepted by the municipality, prior to the service being required and must comply with the conditions determined by the Municipal Manager.
- (2) After the commencement of this by-law only the owner of a property or his or her duly authorised agent on his or her behalf may apply for municipal services to be supplied to a property.
- (3) No services will be supplied unless and until application has been made by the owner and a service agreement in the format prescribed by the municipality has been entered into and a deposit provided for in section 6 has been paid.

**6. Deposits**

- (1) On approval of the application and before the service is made available, the municipality may require the applicant –
  - (a) to deposit for municipal services with the municipality a sum of money;
  - (b) to provide any other form of security; or
  - (c) to agree to special conditions regarding payment of the municipal account, and monies so deposited with the municipality serve as security.
- (2) The Municipal Manager reserves the right to review the sum of money deposited or the amount for which additional security is required.
- (3) The Municipal Manager may, in respect of preferred customers, consider relaxation of the conditions pertaining to deposits as set out in subsections (1) and (2).
- (4) On termination of the supply of services, the amount of such deposit, less any payments due to the municipality, must be refunded to an account holder.

**7. Billing and payment**

- (1) The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must pay for metered services, and must pay the rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- (3) An account holder –
  - (a) must, where possible, be rendered one account, on which the due date for settlement of the total amount owing is reflected, subject to the provisions of subsection (14); and
  - (b) must be billed monthly in cycles of approximately 30 days.
- (4) Payment must be received on or before the close of business on the due date.
- (5) Payment made via electronic media or any of the service providers appointed by the municipality to receive payments on its behalf, should be made at least four working days before the due date to enable the payment to be processed, and interest accrues should the municipality receive payment after the due date.

- (6) Where the account holder effects payment of an account via a service provider four working days or more before the due date and such service provider fails to furnish the municipality with the relevant payment details, such service provider may be held liable for all charges incurred by the municipality to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.
- (7) The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, which intervals may not exceed 4 months, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein object to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.
- (10) An error or omission in any account or failure to render an account does not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to the municipality in accordance with the prescribed charges in respect of –
  - (a) the quantity of water or electricity which the account holder has used and for which the account holder has not been charged; or
  - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- (12) An account holder is not entitled to a reduction of the amount payable for metered services which are lost due to a fault in the meter, until such time as the provisions of section 13(8)(c) have been met.
- (13) The municipality may –
  - (a) consolidate any separate accounts of an account holder liable for payment to the Municipality; and
  - (b) credit any payment by an account holder against any debt of that account holder.
- (14) The owner of property may enter into an agreement with the municipality in terms of which payment for rates is made annually, in which case payment must be made on or before the date determined by the municipality.

## **8. Termination of service agreement**

- (1) Termination of the service agreement must be in writing to the other party of the intention to do so.
- (2) Where a property is sold, an owner may terminate a service agreement by giving the municipality not less than four working days' notice in writing.

- (3) The municipality may, by notice in writing of not less than 14 working days, advise an account holder of the termination of the agreement for a supply of municipal services if –
  - (a) the account holder has committed a breach of this by-law and has failed to rectify such breach; or
  - (b) the municipality cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority must in future supply municipal services to the account holder.

## **Part 2**

### **Non-payment of municipal accounts**

#### **9. Arrangements for payments**

- (1) Should an account holder, before any of the steps have been taken in terms of section 11, not be able to pay the municipal account in full, the account holder may approach the municipality with the aim of making short-term arrangements to settle the account.
- (2) Should an account holder, after any of the steps have been taken in terms of section 13, experience difficulties in paying the municipal account, the account holder may approach the municipality with the aim of making arrangements to settle the account, and the account holder must enter into a written agreement with the municipality to repay to the municipality the outstanding and due amount under the conditions and on a basis determined, by the Municipal Manager,.
- (3) The written agreement must be signed on behalf of the municipality by a duly authorised officer.
- (4) In the instance where arrangements for payment have been made the municipality may –
  - (a) review the deposit;
  - (b) require of an account holder to pay by means of a stop order or debit order;
  - (c) require of an account holder to convert to a pre-paid metering system; or
  - (d) require any other form of security, including personal surety by the directors or members of a company, closed corporation, trust or body corporate.

#### **10. Interest on overdue municipal accounts**

- (1) The municipality may, charge or recover interest at a rate determined by it in respect of any arrear amounts due and payable.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 9, interest accrues if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by the municipality, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of the municipality or to the credit of the bank account of the municipality at the close of business on the due date.

#### **11. Debt collection mechanisms**

- (1) Where appropriate, the Municipality must at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and

- the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date:
- (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
  - (b) informing the account holder verbally, in writing, telephonically, or by electronic means of the overdue amount and the impending disconnection or restriction of services
  - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or
  - (d) debiting the municipal account of the account holder with all relevant fees or penalties approved by the municipality.
- (2) Where the metered supply had been disconnected or restricted, and should the account holder still fail to pay the account, the premises may be revisited at regular intervals to ensure that the metered supply remains disconnected or restricted, and if it is found that the supply which had been disconnected or restricted previously has been restored –
- (a) the municipality has the right to take whatever action is required in terms of section 30, and the account holder is responsible for the relevant fees or charges or damages caused;
  - (b) the municipality may refuse to supply services for a period determined by the municipality ; and
  - (c) in the instance of the use of a pre-paid meter, the municipality may cease further vending of pre-paid services.
- (3) Where a duly authorised officer of the municipality has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection becomes payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.
- (4) The municipality may use any one or more of the following mechanisms to secure full payment of any amounts owing to it:
- (a) requiring of the account holder to convert to another metering system;
  - (b) allocating a portion of any pre-paid payment to other debts;
  - (c) publishing a list of account holders who remain in default;
  - (d) withholding payment of a grant-in-aid and subject to the provisions of section 32, excluding the account holder from the tender process;
  - (e) withholding payment on contracts for settlement of the municipal account;
  - (f) reviewing and altering the conditions of the service agreement;
  - (g) instituting legal proceedings for the recovery of the debt;
  - (h) classifying the account holder as an unreliable customer;
  - (i) using the services of external debt collection specialists or agencies;
  - (j) insisting on conversion to pre-paid metering at the cost of the account holder; or
  - (k) employing any other methods authorised by the municipality from time to time to recover arrear amounts.
- (5) The cost of collection, where applicable, is for the account holder's account.
- (6) Subject to the provisions of sections 28 and 29 of the Property Rates Act, 2004 (Act 6 of 2004), the right to deny, restrict, disconnect or terminate services due to the non-payment for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable

arising from any other liability or obligation prevails notwithstanding the fact that –

- (a) payment was intended for any specific service; or
- (b) the person who entered into a service agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

### **Part 3**

#### ***Metering equipment and metering of services***

#### **12. General provisions**

The municipality may introduce various metering equipment and may encourage an account holder to convert to a system, which will benefit the municipality and account holders.

#### **13. Metering equipment and measuring of consumption**

- (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- (3) Where any building referred to in subsection (2) is metered by the municipality as a whole -
  - (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
  - (b) the municipality may require the installation, at the account holder's expense, of a meter for each unit of any premises occupation separately for the purpose of determining the quantity of metered services supplied to each such unit.
- (4) Where the electricity used by consumers is charged at different tariffs, the consumption must be metered separately for each tariff.
- (5) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services is deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
  - (a) a meter is conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (13), is found to be within the limits of error as provided for in the applicable standard specifications;
  - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality must –
    - (i) in case of a credit meter, adjust the account rendered; or
    - (ii) in the case of prepayment meters:

- (aa) render an account where the meter has been under-registering;  
or
  - (bb) issue a free token where the meter has been over-registering;  
and
  - (c) the consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph (b) and subsection (7) must be made and the aforesaid fee must be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (8)(b), the municipality must –
- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
  - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and
  - (c) call upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period the municipality is entitled to adjust the account as notified in paragraph (a).
- (11) The Municipality must consider any representation provided by the consumer in terms of subsection (10) and may adjust the account appropriately.
- (12) If the Municipal Manager decides that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (15), the municipality is entitled to adjust the account as notified in terms of subsection (10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (13) Meters are tested in the manner provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of subsection (8)(b) or (8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (13), or upon a calculation by the Municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection (14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The municipality may dispense with the use of a meter in case of –
- (a) an automatic sprinkler fire installation; or
  - (b) special circumstances that may justify such dispensation.
- (17) The municipality may by notice –
- (a) prohibit or restrict the consumption of metered services –
    - (i) for specified or non-specified purposes;
    - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and

- (iii) in a specified or non-specified manner; and
  - (b) determine and impose –
    - (i) limits on the quantity of metered services which may be consumed over a specified period;
    - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
    - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
  - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.
- (18) The municipality may limit the application of the provisions of a notice contemplated by subsection (17) to specified areas and classes of account holders, premises and activities, and may provide for the Municipality to permit deviations and exemptions from, and the relaxation of any of the provisions.
- (19) To ensure compliance with a notice published in terms of subsection (17), the municipality may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.
- (20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection (17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless evidence is adduced that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- (21) The provisions of this section also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (17).
- (22) If action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the municipality may –
  - (a) without prior notice disconnect the supply of metered services to any premises; and
  - (b) enter upon such premises and do emergency work, as it may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the municipality may deem necessary;
- (23) The municipality may recover from the account holder the cost of any work undertaken in terms of subsection (22)(b) where such work was undertaken because of an unlawful act or omission by the account holder.
- (24) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by the municipality.
- (25) The municipality may, at the written request of an account holder and on the dates requested by the account holder –
  - (a) disconnect the supply of metered services to the account holder's premises; and

- (b) upon payment of the prescribed charge for restoration, restore the supply of such services.
- (26) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees must be paid before reconnection is made.
- (27) The following apply to the reading of credit meters:
- (a) unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;
  - (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption must be adjusted in a subsequent account in accordance with the consumption actually consumed;
  - (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
  - (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
  - (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer –
    - (i) the error must be corrected in subsequent accounts;
    - (ii) any such correction applies only in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
    - (iii) the correction is based on the actual tariffs applicable during the period; and
    - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (28) The following apply to prepayment metering:
- (a) no refund of the amount tendered for the purchase of electricity or water credit is given at the point of sale after initiation of the process by which the pre-payment meter token is produced; provided that this section will only apply to Standard Transfer Specification equipment (STS tokens);
  - (b) copies of previously issued tokens for the transfer of credit to the pre-payment meter may be issued at the request of the consumer;
  - (c) when an account holder vacates any premises where a pre-payment meter is installed, no refund for the credit remaining in the meter is made to the owner by the municipality;
  - (d) the municipality is not liable for the re-instatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, pre-payment meters or tokens;
  - (e) where an account holder is indebted to the municipality for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality; and
  - (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.
- (29) A person who contravenes any provision of this section is guilty of an offence.

**14. Resale of water or electricity**

- (1) No account holder who is supplied with metered services in terms of this by-law may sell or supply water or electricity to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or offer such resale or supply to be made, unless prior permission from the municipality has been obtained.
- (2) If the municipality grants the permission referred to in subsection (1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.
- (3) Permission referred to in subsection (1) may be withdrawn at any time.
- (4) Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may impose.
- (5) A person who contravenes any provision of this section is guilty of an offence.

**Part 4*****Indigence relief measures*****15. Requirements for indigence relief**

- (1) To qualify for indigence relief, the following requirements must be met:
  - (a) The applicant must be an account holder;
  - (b) the applicant must, before a date determined by the municipality, apply annually, or at such intervals as determined by the municipality, to be granted the status as a poor household, and for these purposes must -
    - (i) complete and sign the prescribed forms; and
    - (ii) provide any other documentation as may be required by the municipality ;
  - (c) the applicant may not be the owner of more than one property and he or she must occupy the property; and
  - (d) the collective household income may not exceed the amount determined by the municipality in terms of subsection (2).
- (2) For the purposes of determining the collective household income as contemplated in subsection (1)(d), the municipality may stipulate an amount, or may determine a maximum amount based on any one or more of the following:
  - (a) consumption of water;
  - (b) consumption of electricity; or
  - (c) the municipal valuation of the property, which valuation may not exceed the value determined by the municipality .
- (3) In the case of a tenant –
  - (a) the tenant must apply in person and may qualify for electricity, water and refuse and sewage charges only, for which charges he or she must receive a municipal account; and
  - (b) the person receiving the rent payable by the tenant whether on the person's own account or as agent for any other person entitled thereto or interested therein, is responsible for rates.
- (4) In the instance where the account holder is deceased, the existing and future accounts of the household must be accepted under the indigence relief measures, on condition that only the surviving spouse or dependent children may apply or benefit.

**16. Credit given**

- (1) Households which qualify for indigence relief measures may receive a credit for some or all of the following as determined by the municipality:
  - (a) a quantity of electricity plus basic fee;
  - (b) a quantity of water plus basic fee;
  - (c) refuse removal charges;
  - (d) sewerage charges;
  - (e) rates; or
  - (f) any other service fees, taxes or charges over and above the rendered services.
- (2) The municipality has the right to review an application for indigence relief on a regular basis and to visit the property mentioned in section 15(1)(c) at any reasonable time for the purposes of verifying the information given in an application.
- (3) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit limits approved by the municipality.
- (4) Where it has been established that indigence relief has been granted on the basis of false or fraudulent information supplied, the municipality may withdraw such relief with immediate effect and the recipient of the relief may be held liable for the immediate repayment of all relief received and all debts, including arrears that have previously been written off, and the municipality may institute criminal proceedings as it may deem fit.

### **CHAPTER 3 TARIFFS**

#### **Part 1**

#### ***General principles, calculation of tariffs for major services***

#### **17. General principles**

- (1) The municipality adopts, subject to subsection (14), sections 20(3)(d) and (e) and 21(5)(d), a two-part tariff structure consisting of a fixed availability charge coupled with a charge based on consumption.
- (2) In setting its annual tariffs the municipality must at all times take due cognisance of the –
  - (a) tariffs applicable elsewhere in the economic region; and
  - (b) impact which its own tariffs may have on local economic development.
- (3) With the exception of the indigence relief measures approved by the municipality, service tariffs imposed by the municipality should be viewed as user charges and not as taxes, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (4) The municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (5) Tariffs for the following services rendered by the municipality, must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a surplus as determined in each annual budget:
  - (a) supply of electricity;
  - (b) supply of water;
  - (c) sanitation services, including sewerage and waste water disposal services; and
  - (d) refuse (solids waste) removal services.

- (6) The tariff, which a particular consumer or user pays, must be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (7) The municipality must annually review its indigence relief measures, as contemplated in sections 15 and 16, and must set out the –
  - (a) municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents; and
  - (b) the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.
- (8)
  - (a) The municipality's tariff policy must be transparent.
  - (b) The extent to which there is cross-subsidisation between categories of consumers or users must be evident to all consumers or users of the service in question.
- (9) The municipality undertakes to –
  - (a) ensure that its tariffs are explained to and understood by all consumers and users affected by this by-law;
  - (b) render its services cost effectively in order to ensure the best possible cost of service delivery.
- (10) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered by the municipality, and meters must be read, wherever circumstances reasonably permit, on a monthly basis, and the charges levied on consumers must be proportionate to the quantity of the service which they consume.
- (11) In considering the costing of its water, electricity and sewerage services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (12) The municipality's tariffs for electricity services are determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
  - (b) For the purposes of paragraph (a), the municipality must install demand meters to measure the maximum demand of such consumers during certain periods.
  - (c) Such consumers must pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

## **18. Calculation of tariffs for major services**

In order to calculate the tariffs, which must be charged for the supply of the services contemplated in section 17(5), the municipality must identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of electricity and water;
- (d) depreciation expenses;
- (e) maintenance of infrastructure and other fixed assets;
- (f) administration and service costs, including –
  - (i) service charges levied by other departments such as finance, human resources and legal services;
  - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
  - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and

- (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area; and
- (g) the cost of indigence relief measures.

## **Part 2**

### **Structure of tariffs for major services, minor tariffs**

#### **19. Structure of tariffs**

- (1) The municipality may–
  - (a) determine the kilowatt-hours of electricity per month and the kilolitres of water which will be provided free of charge to a consumer who have registered as an indigent in terms of section 15(1)(b);
  - (b) consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigent to the extent that the council deems such relief affordable in terms of each annual budget, however, such relief may not be less than a discount as determined by the municipality; and
- (c) levy a surcharge on a service or services in appropriate circumstances, such as during a national disaster or times of drought where it may be necessary to institute limits on consumption.
- (2) The tariff for a pre-paid meter is the same as the ordinary consumption tariffs levied on the category of consumer concerned, and no availability charge is levied on a property where a pre-paid meter has been installed.

#### **20. Electricity**

- (1) The various categories of electricity consumers, as set out in subsection (3), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of consumers and charges are as follows:
  - (a) with the exception of a registered indigent, a consumer must be billed for all the electricity consumed at the tariff applicable to the category in which the particular consumer falls.
  - (b) the tariff for domestic consumption of electricity may not exceed such percentage, per kilowatt-hours, as determined by the municipality, of the tariff applicable to other consumers, and all other consumers, including businesses, industries and institutional consumers, must pay the same tariff per kilowatt-hour.
  - (c) A domestic electricity consumer of the municipality who is registered as an indigent with the municipality must receive free the amount of kilowatt-hours of electricity as determined in terms of section 19(1).
  - (d) a domestic electricity consumer other than a registered indigent and sub-economic (Government subsidised Housing) consumer must additionally be billed an availability charge per meter installed.
  - (e) a commercial, industrial and other non-domestic property must additionally be billed a monthly availability charge per meter installed and, where applicable, a demand charge appropriate to its respective levels of consumption.

#### **21. Water**

- (1) The categories of water consumers as set out in subsection (5), are charged at the applicable tariffs, as approved by the municipality in each annual budget.

- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) The tariff levied for domestic consumption of water escalates according to the volume of water consumed, and will be based on a monthly consumption as determined by the municipality.
- (4) The tariff for non-domestic water consumption is based on a single tariff per kilolitre consumed, irrespective of the volume of consumption concerned.
- (5) Categories of consumers and charges are as follows:
  - (a) a domestic water consumer registered as an indigent with the municipality must receive free the first six kilolitre of water consumed per month, thereafter a tariff as determined by the municipality is applicable on metered water consumption.
  - (b) all other domestic consumers are charged for actual water consumption at a stepped tariff per kilolitre as determined by the municipality.
  - (c) the tariff applicable to domestic consumption of water may not exceed such percentage per kilolitre as determined by the municipality, of the tariff applicable to other consumers and all other consumers, including businesses, industries and institutional consumers, must pay the tariff as contemplated in subsection (4).
  - (d) an availability charge per water meter, as determined by the municipality, is charged on a water consumer.

## **22. Refuse removal**

- (1) The categories of refuse removal users as set out in subsection (3) are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) A separate fixed monthly refuse removal charge applies to each of the following categories of users, based on the costs of the service concerned:
  - (i) domestic and other users, where refuse is removed by the municipality once weekly; and
  - (ii) business and other users, where refuse is removed by the municipality twice weekly;
  - (iii) business and other users, where refuse is removed by the municipality thrice weekly; and
  - (iv) business and other bulk consumers.
- (4) A registered indigent may receive a discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed as a refuse removal charge.

## **23. Sewerage**

- (1) The categories of sewerage users as set out in subsection (3) are charged per month at the applicable tariff as approved by the municipality in each annual budget.
- (2) Tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of users and charges are:
  - (a) an availability charge is charged per month or annually for an undeveloped erf, irrespective of its permitted or intended use.
  - (b) a fixed monthly charge based on the costs of the service, is charged for bucket removal for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may

- not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
- (c) a fixed monthly charge based on the costs of the service is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
  - (d) a fixed monthly charge based on the costs of the service per sewer point or toilet is charged to all businesses, industries and institutional users.
  - (e) an effluent fee is payable by a factory and another industrial user where the wastewater emanating from such user requires special purification measures by the municipality, and the fee is based on the toxic content of the wastewater concerned and the costs of the purification.
  - (f) a charge, based on the costs of the service to empty a septic tank, will be levied for each visit to empty a septic tank on the premises of a person requiring such service.

#### **24. Minor tariffs**

- (1) All minor tariffs are standardised within the municipal region.
- (2) All minor tariffs are approved by the municipality in each annual budget and are, when deemed appropriate by the municipality, subsidised by property rates and general revenues, particularly when the –
  - (a) tariffs prove uneconomical when charged to cover the cost of the service concerned;
  - (b) cost cannot accurately be determined; or
  - (c) tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) Unless there are compelling reasons why such adjustment should not be effected, all minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, are adjusted annually at least in accordance with the prevailing consumer price index.
- (4) The following services are subsidised services, and the tariffs levied cover 50%, or as near as possible to 50%, of the annual operating expenses budgeted for the service concerned:
  - (a) burial services and the provision of cemeteries; and
  - (b) the provision of municipal sports facilities for use against a fee.
- (5) The following services are considered as being community services, and no tariffs are levied for their use:
  - (a) a municipal swimming pool;
  - (b) a municipal museum and art gallery;
  - (c) the disposal of garden refuse at the municipal disposal site;
  - (d) a municipal reference library;
  - (e) a municipal lending library, except for fines determined;
  - (f) a municipal botanical garden, other park or open space;
- (6) The following services are considered as being economic services, and the tariffs levied cover 100%, or as near as possible to 100%, of the budgeted annual operating expenses of the service concerned:
  - (a) The maintenance of graves, gardens of remembrance and crematoria against payment of a fee;
  - (b) the availability of a house against payment of a housing rental;
  - (c) subject to subsection (9), the use of a municipal hall and other premises against payment of a fee;

- (d) the supply of a building plan against payment of a fee;
  - (e) the selling of –
    - (i) plastic refuse bags;
    - (ii) the selling of refuse bins; or
    - (iii) livestock and plants;
  - (f) the cleaning of stands against payment of a fee;
  - (g) the connection of electricity, water and sewerage against payment of a connection fee;
  - (h) the photo stating of copies against payment of a fee; and
  - (i) the issuing of a clearance certificate against payment of a fee.
- (7) The following charges and tariffs are considered as regulatory or punitive, and are determined as appropriate in each annual budget:
- (a) fines for lost or overdue library books;
  - (b) advertising sign fees;
  - (c) pound fees;
  - (d) disconnection and reconnection fees of electricity and water;
  - (e) penalty and other charges imposed in terms of Chapters 1 and 2; and
  - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (8) The lease of a municipal property must be dealt with in terms of the Municipality's Supply Chain Management Regulations or Policy;
- (9) If the municipal manager is satisfied, in the case of a rental for the use of a municipal hall and premises, that the hall or premises is required for non-profit making purposes and for the provision of a service to the community, the municipal manager may waive the applicable rental.
- (10) The municipal manager must determine whether an indemnity or guarantee is to be lodged, or whether a deposit has to be paid, for the rental of a municipal hall, premises or sports field, and in so determining must be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.
- (11) The costs of the democratic process in the municipality such as, but not limited to, all expenses associated with the political structures of the municipality, form part of the expenses to be financed from property rates and general revenues, and are not included in the costing of the major services of the municipality.

## CHAPTER 4

### RATES

#### 25. Imposition of rates

- (1) The municipality must impose, as part of each annual operating budget component, a rate in the rand on the value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll.
- (2) When imposing the rate for each financial year, the municipality must take proper cognisance of the –
  - (a) aggregate burden of rates and service charges on property owners in the various categories of property ownership; and
  - (b) extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

**26. Rebates on rates**

- (1) The municipality may grant rebates in recognition of the following factors:
  - (a) the inability of residential property owners to pass on the burden of rates, as opposed to the ability of the owners of business, commercial, industrial and certain other properties to recover such rates as part of the expenses associated with the goods or services which they produce;
  - (b) the need to accommodate indigents and less affluent pensioners;
  - (c) the services provided to the community by public service organisations;
  - (d) the value of agricultural activities to the local economy coupled with the limited municipal services extended to such activities, but also taking into account the municipal services provided to municipal residents who are employed in such activities;
  - (e) the need to preserve the cultural heritage of the local community;
  - (f) the need to encourage the expansion of public service infrastructure; and
  - (g) the indispensable contribution which property developers, especially in regard to commercial and industrial property development, make towards local economic development, and the continuing need to encourage such development.
- (2) The municipal manager must, subject to section 15(3) and 15(4) of the Property Rates Act, 2004 (Act 6 of 2004), ensure that rebates are indicated on the rates accounts submitted to each property.
- (3) The municipality may categorise properties and grant rebates as determined by it.
- (4) In determining whether a property forms part of a particular category contemplated in subsection (3), the municipality must have regard to the actual use to which the relevant property is put, and in the case of vacant land not specifically included in any of the categories, the permitted use of the property determines into which category it falls.
- (5) The rebates granted under subsection (3) apply in addition to the provisions of section 17(1)(h) of the Property Rates Act, 2004 (Act 6 of 2004).
- (6)
  - (a) Subject to the provisions of section 9 of the Property Rates Act, 2004, a property, other than one referred to in section 17(1)(h)(i) of that Act, is rated on the value assigned to each component, and receives the rebate applicable to such component.
  - (b) where one component on average represents a higher percentage than that determined by the municipality, of the property's actual use, such property must be rated as though it were used for that use only.

**27. Adjustment of rates**

- (1) Where the rates levied on a particular property have been incorrectly determined, whether because of –
  - (a) an error or omission on the part of the municipality;
  - (b) false information provided by the property owner concerned; or
  - (c) a contravention of the permitted use to which the property concerned may be put, the rates payable must be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

- (2) Where the error occurred as contemplated in subsection (1)(b) or (c), interest on the unpaid portion of the adjusted rates payable must be levied at the maximum rate permitted by prevailing legislation.

## **28. Frequency of valuations**

Subject to the provisions of sections 32 and 77 of the Property Rates Act, 2004 (Act 6 of 2004), the municipality must prepare a new valuation roll every three years and supplementary valuation rolls every six months.

## **CHAPTER 5 ENFORCEMENT**

## **29. Municipality's powers to restrict or disconnect supply of services**

The municipality may, over and above the provisions of any other provisions in this by-law restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if -

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 37 of 1944), in respect of an account holder; provided further that such services will only be suspended if the account holder fails to make regular payments in respect of the current services;
- (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
- (e) an account holder causes a situation which is dangerous or a contravention of relevant legislation; or
- (f) an account holder is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936).

## **30. Tampering, unauthorised connections and reconnections, and improper use**

- (1) The municipality reserves the right to monitor the service network for signs of tampering or irregularities.
- (2) No person may in any manner or for any reason tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (3) Where evidence exists of an account holder or any person having contravened subsection (2), the municipality has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the Municipality for such disconnection.
- (4) Where an account holder or any person has contravened subsection (2) and such contravention has resulted in the meter recording less than the true consumption, the municipality has the right to recover from the account holder the full cost of his or her estimated consumption.
- (5) A person who contravenes any provision of this section is guilty of an offence.

**31. Clearance certificate**

To effect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the municipal manager upon payment of the prescribed fee and subject to the conditions of section 118 of the Municipal Systems Act, 2000 (Act 32 of 2000) being met.

**32. Tenders and grants-in-aid**

- (1) Each tender submitted to the municipality must be accompanied by a certificate from the municipality stating that the proposed supplier/service provider is not indebted to the municipality for any arrear amount reflected on the municipal account.
- (2) Should a proposed supplier/service provider be so indebted, the municipality may disallow the tender.
- (3) The municipality may only consider a tender once the proposed supplier/service provider has made satisfactory arrangements to pay the outstanding amount by means of instalments, or has settled all arrear amounts in full.
- (4) The municipal manager or a duly authorised officer of the municipality must in the condition of contract, provide for the deduction from moneys owed to the supplier/service provider in order to settle any outstanding amount.
- (5) Payment of any grants-in-aid approved by the municipality may be withheld pending payment of any outstanding municipal account, or pending an agreement between the municipality and the receiver of a grant-in-aid in which satisfactory arrangements have been made regarding the settlement of the outstanding municipal account.

**33. Power of council to recover costs**

- (1) Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- (2) All legal costs, excluding attorney-and-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act 32 of 1944), must be levied against the arrears account of the account holder.
- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff policy.

**34. Prima facie evidence**

A certificate reflecting the amount due and payable to the municipality, signed by the municipal manager, is upon mere production thereof prima facie evidence of the indebtedness of the person mentioned in it.

**35. Abandonment of bad debts, and full and final settlement of account**

- (1) Before terminating the debt collection procedure in any individual instance, the municipal manager must –

- (a) ensure that all debt collection mechanisms as provided for in section 11 have been utilised where reasonable;
  - (b) maintain an audit trail; and
  - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The municipal manager may consider an offer for full and final settlement, and must, if in the interests of the municipality, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the municipal manager, shall not be deemed to be in full and final settlement of such an amount.

### **36. Power of entry and inspection**

- (1) A duly authorised representative of the municipality may for any reason related to the implementation or enforcement of this by-law at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If the municipality considers it necessary for work to be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may –
  - (a) by written notice require an account holder to do, at own expense, specified work within a specified period; or
  - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
  - (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the municipality must bear the expense connected therewith together with that of restoring the premises to their former condition.

### **37. Authentication and service of orders, notices and other documents**

- (1) An order, notice or other document, requiring authentication by the municipality, must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this by-law, is regarded as having been 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 acknowledgement 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 placed in a conspicuous place on the property or premises, if any, 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 such body corporate to a person apparently over the age of 16 years; or
  - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be served on the owner, an account holder 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, account holder or holder of the property or right in question, and it is not necessary to name that person.
- (4) Service of a copy is deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

## **CHAPTER 6 MISCELLANEOUS PROVISIONS**

### **38. Right of appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision

### **39. Offences and penalties**

- (1) A person who contravenes the provisions of section 13(9)(19) and (26), 14(1), (2) and (3), 16(4), 30(2) and 36 is guilty of an offence and is, on conviction, and subject to penalties prescribed in any other law, liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.
- (2) Any person who-
- (a) fails to give access required by an officer in terms of section 36;
  - (b) obstructs or hinders an officer in the exercise of his or her powers or the performance of functions or duties under this by-law;
  - (c) uses or interferes with the municipality's equipment for consumption of services supplied;
  - (d) fails or refuses to give the municipality or an officer such information as the municipality or the officer may reasonably require for the purpose of exercising powers or functions under this by-law, or gives the municipality or the officer false or misleading information knowing it to be false or misleading;
  - (e) fails to comply with the terms of a notice served upon him or her in terms of this by-law; or
  - (f) tampers or breaks any seal on a meter or on any equipment belonging to the municipality, or for any reason causes a meter not to register the services used properly, and the person shall furthermore be charged for usage of electricity or water, as the case may be;

is guilty of an offence and is, on conviction, liable to the penalties set out in subsection(1)

#### 40. Repeal of by-laws

Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law, are hereby repealed.

#### 41. Short title and commencement

This by-law may be cited as the Customer Care and Revenue Management By-law and commences on the date of publication thereof in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

### **RAYMOND MHLABA MUNICIPALITY: CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAW: OFFENCES AND FINES**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
13(9)r/w 39	Altering, repairing, adding or connecting of the supply side of the point of metering without specifically approved in writing by the Municipal Manager.	1000	1000
13(19) r/w 39	Failing to comply with a notice including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.	500	500
13(26) r/w 39	Failure to pay the prescribed fee for reconnection of a device.	500	500
14(1) r/w 39	Selling or supplying water or electricity to any other person or persons for such use upon any premises other than those in respect of which an agreement is made, or permitting or offering such resale or supply to be made without prior permission from the municipality has been obtained.	1000	1000
14(2) r/w 39	Selling or supplying electricity over and above the maximum price of sale imposed by the municipality.	1000	1000
14(3) r/w 39	Continuing to sell or supply electricity after the withdrawal of municipal permission in this regard.	1000	1000
16(4) r/w 39	Supplying false or fraudulent information to gain indigence relief.	1000	1000
30(2) r/w 39	Tampering or interfering with any meter or metering equipment or service connection or service protective device or supply mains or	1000	1000

	any other equipment of the municipality.		
36 r/w 39	Failure to allow a duly authorized representative of the municipality access to a premises at a reasonable time to carry out an inspection, disconnect, stop or restrict the provision of any service.	1000	1000

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed ..... 04/2019  
 Magistrate: Middledrift ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Fort Beaufort ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Adelaide ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Bedford ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Cathcart ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Alice ..... Date Stamp

Signed ..... 04/2019  
 Magistrate: Seymour ..... Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY: STREET TRADING BY-LAWS

### By-law published in Provincial Gazette number 4184 dated 11 February 2019

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality enacts as follows:-

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#### 1. Definitions

- (1) In this by-law, unless the context otherwise indicates –  
“**Act**” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;  
“**approval**” means approval by the municipality and “approve” has a corresponding meaning;  
“**garden**” means a garden to which the public has a right to access;  
“**goods**” means any movable property and includes a living thing;

**“intersection”** means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“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 disposal or processing facility;

**“motor vehicle”** means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“municipality”** means –

- (a) the Raymond Mhlaba Local Municipality, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councilor, agent or employee; or
- (b) A service provider fulfilling a responsibility under this by-law, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law as the case may be;

**“municipal manager”** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (c) acting in such position; and
- (d) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

**“nuisance”** means any act, omission or condition which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which affects, or may affect, the safety of the public;

**“official”** means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

**“park”** means a park to which the public has a right to access;

**“perishable foodstuffs”** mean perishable foodstuffs declared as such in the Perishable Foodstuffs Regulations published under Government Notice R1183 in Government Gazette 12497 of 1 June 1990 (as amended) in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972 and which includes meat, milk, fish, fish spawn, molluscs, crustaceans, fruit, vegetables and bread;

**“premises”** includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

**“prescribed”** means prescribed by the municipality by resolution;

**“property”**, in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

**“public amenity”** means –

- (a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoological, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

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

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

**“roadway”** means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“sell”** includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and “sale” or “selling” has a corresponding meaning;

**“sidewalk”** means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

**“street furniture”** means any furniture installed by the municipality on the street for public use;

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

**“street trading”** means the carrying on of the business as a street trader;

**“verge”** means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

- (2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.
- (3) A reference to a person carrying on the business of street trader includes the employee of the person.

## 2. Principles and objectives

- (1) The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –
  - (a) having regard to the principles set out in the Act and in the Constitution;
  - (b) taking into consideration the need of the residents to actively participate in economic activities; and
  - (c) taking into consideration the need to maintain a clean, healthy and safe environment, in this by-law provides mechanisms, procedures and rules to manage street trading.
- (2) In the development and management of its obligations and the implementation of this by-law, the municipality also recognises the infrastructural, social and economic disparities and inequalities resulting from previous local government dispensations and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as determined in section 152 of the Constitution.
- (3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Raymond Mhlaba Local area, the different customs, cultures, circumstances, geographical areas, kinds of premises levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines, the granting of exemptions and the utilization of liaison forums.

### **3. Application**

- (1) No person may conduct the business of a street trader without the written permission of the municipality.
- (2) The municipality may impose conditions when issuing a street trading permit and the municipality may indicate the area and time for which the permit is valid.
- (3) The municipality may suspend the validity of a street trading permit in a specific area or of street trading permits in general when a special event takes place, provided that the municipality shall post written notices to this effect on its notice boards and provided further that, where possible, written notices shall be served on individual street traders in the affected areas.
- (4) The municipality may refuse to renew a permit if there are any fines outstanding.
- (5) This by-law applies to all persons who carry on the business of street trading within the area of jurisdiction of the Raymond Mhlaba Local Municipality.
- (6) A person who conducts the business of a street trader without the written permission of the municipality, who fails to comply with any condition imposed in terms of subsection (2) or who trades when a permit has been commits an offence.

## **CHAPTER 1: GENERAL PROVISIONS APPLICABLE TO STREET TRADING**

### **4. Restricted and prohibited areas**

- (1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) up to and including (j), declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.
- (2) The municipality may by public notice and by erected sign indicate such areas, and the notice and sign must indicate –
  - (a) the restriction or prohibition against street trading;
  - (b) if street trading is restricted –
    - (i) the boundaries of the area or stand set aside for restricted street trading;
    - (ii) the hours when street trading is restricted or prohibited; and
    - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
  - (c) that the area has been let or otherwise allocated.
- (3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.
- (4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.

### **5. Places where street trading is prohibited**

- (1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:
  - (a) In a garden or a park to which the public has a right of access; or
  - (b) on a verge contiguous to –

- (i) a building belonging to, or occupied solely by the State or the municipality;
  - (ii) a church or other place of worship; or
  - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
- (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
  - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view.
  - (c) within 5 metres of an intersection as defined in Regulation 322 of the National Road Traffic Regulations published under GN R225 in GG 20963 of 17 March 2000 in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);
  - (d) at a place where street trading obstructs –
    - (i) a fire hydrant;
    - (ii) the entrance to, or exit from, a building;
    - (iii) vehicular traffic;
    - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
    - (v) access to, or the use, of street furniture or any other facility designed for the use of the general public;
    - (vi) obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
    - (vii) obscures a marking, notice or sign displayed or made in terms of this by-law;
  - (e) on that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto;
  - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law; or
  - (g) within ten meters (10m) of the entrance to a financial institution or electronic banking facility.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act –
- (a) must comply with the conditions of the lease of allocation;
  - (b) must be in possession of written proof that municipality has let or allocated the area or stand to him or her; and
  - (c) may not transfer any written proof that municipality has let or allocated the area or stand to him or her
- (4) No person may purchase or offer to purchase from a street trader any goods or service, including casual labour services, in or at a place where street trading is prohibited.
- (5) A person who contravenes a provision of this section commits an offence.

## **6. Duties of street trader**

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except if stored in any structure approved and permitted by

- the municipality, to a place which is not part of a public road or public amenity;
- (b) when requested by an official of the municipality or a by a person who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
  - (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
  - (d) ensure that the area is free of litter at all times, and must, when he or she concludes business for the day, dispose of litter generated by his or her business in receptacles provided by the municipality for the public;
  - (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
  - (f) regarding the size and location of the area or stand occupied by him or her, –
    - (i) ensure that the area which he or she uses does not exceed 6 m<sup>2</sup> in size and not exceed 3 metres in length;
    - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
    - (iii) leave a space of not less than 2 metres from the kerb of the roadway.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## 7. Prohibited conduct

- (1) A street trader –
- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
  - (b) may not place or stack his or her property in such a manner that it –
    - (i) constitutes a danger to any person or property; or
    - (ii) is likely to injure any person or cause damage to any property;
  - (c) may not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
  - (d) may not release onto a public road or public amenity or into a storm water drain any fat, oil or grease in the course of conducting his or her business;
  - (e) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
  - (f) may not erect a structure for the purpose of providing shelter, except for a temporary structure to provide shelter against the weather in which case the said shelter must be removed at the end of the day's business, provided that prior written approval to erect a structure must be obtained from the municipality and the municipality may prescribe the materials that may be used;
  - (g) may not place his or her property on the surface of a public road or in a public amenity;
  - (h) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996;

- (i) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control of such building or property;
  - (j) may not attach an object by any means to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity;
  - (k) may not carry on his or her business in such a manner as to –
    - (i) create a nuisance;
    - (ii) damage or deface the surface of a public road or public amenity or public or private property; or
    - (iii) create a traffic hazard;
  - (l) may not make an open fire that poses a health or environment hazard to any person or property or to street furniture;
  - (m) may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit any litter on –
    - (i) any land or premises;
    - (ii) any public road or public amenity or;
    - (iii) any public or private property;
  - (n) may not store his or her property in a manhole, storm water drain, public toilet, bus shelter, on the median between traffic lanes or in a tree;
  - (o) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of section 6A(2)(a) of the Act;
  - (p) may not trade in front of a formal business in goods that are similar to any goods offered for sale by such formal trader;
  - (q) may not allow children under the age of sixteen to accompany him or her trade on his or her behalf where they will be operating on a public road;
  - (r) may not trade from door-to-door in any business centre as indicated in the municipality's zoning scheme; and
  - (s) may not cause a nuisance by insisting, begging or intimidating any person to purchase goods.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

## **8. Removal and impoundment**

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
  - (a) the address where the impounded property will be kept and the period it will be kept;
  - (b) the conditions for the release of the impounded property; and
  - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present

at that place, an official may order the person to remove the impounded property.

- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

## **9. Confiscated goods register**

The Municipality must –

- (a) maintain a register containing the information contemplated in Schedule 1, which must be available for public inspection at all reasonable times; and
- (b) complete the confiscated goods register immediately upon the acceptance into the place of safekeeping and storage set aside for this purpose.

## **10. Disposal of impounded goods**

- (1) Any perishable foodstuffs removed and impounded in terms of section 8(1) may, subject to subsection (2) be sold or destroyed or otherwise be disposed of in terms of any policy of the municipality within a reasonable time after its impoundment, provided that the property will at any time prior to its disposal be returned to the owner at the request of and upon submission of proof of ownership by the owner to the municipality.
- (2) The municipality is entitled to keep and dispose of any impounded perishable foodstuffs claimed by its owner in terms of subsection (1) until all reasonable expenses incurred by it or any fine issued by it have been paid.
- (3) The owner of any goods other than perishable foodstuffs already dealt with by the municipality in terms of subsections (1) and (2) who wishes to claim the return thereof must, within a period of 14 days of the date of the impoundment thereof, apply to the municipality and must present the receipt contemplated in section 8(2)(a), failing which the goods may be sold, subject to section 11.
- (4) In the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the municipality, the owner thereof shall in terms of section 8(3)(a) remain liable for the difference.

## **11. Sale of impounded goods**

- (1) If the owner of impounded goods, excluding perishable foodstuffs, fails to claim such goods and pay the prescribed fees as determined by the municipality from time to time within 14 days of the impoundment of the goods, the municipality must –
  - (a) apply to the Court for authority to sell the goods; and
  - (b) in the application contemplated in paragraph (a), provide the Court with proof that a statement as contemplated in sub-section (2) was lodged with the owner.
- (2) The statement contemplated in subsection (1)(b) must include the fees and costs due in terms of this by-law.
- (3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –
  - (a) summarily enquire into the matter;

- (b) enquire whether notice was given to the owner of the goods by the municipality; and
- (c) make such order as it considers just and equitable, including an order –
  - (i) as to costs; and
  - (ii) on the process to be followed by the municipality in the sale of the confiscated goods.

## **12. Municipal employees and councilors may not purchase impounded goods**

Employees and councilors of the municipality, or a family member, or a close associate of any municipal employee or councilor, may not purchase any goods offered for sale in terms of this by-law, either personally or through any other person, directly or indirectly.

## **13. Newspaper vendors**

- (1) Any publisher of a newspaper that sells such newspaper by using vendors in or on a road must enter into an agreement with the municipality regarding the areas where and times during which such sales may be undertaken.
- (2) The municipality may determine the hours during which the sale of newspapers in terms of subsection (1) may be undertaken.
- (3) The municipality may levy a tariff for the sale of newspapers in or on any road within its area of jurisdiction.
- (4) Any publisher or vendor that contravenes the provisions of this section commits an offence.

## **CHAPTER 2: MISCELLANEOUS PROVISIONS**

### **14. Offences and penalties**

A person who contravenes the provisions of section 3(1), (2) and (3), 4(2), 5(1), (2), (3) and (4), 6(1), 7(1), 8(5), 12 and 13(1) and (2) is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

### **15. Vicarious liability of persons employing street traders**

When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention him- or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

### **16. Indemnity**

The municipality will not be liable for any loss or damage suffered arising from the impoundment of any goods in terms of this by-law.

### **17. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **18. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting economic development.
- (2) A liaison forum may consist of –
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a ward committee in whose immediate area street trading is conducted;
  - (c) a designated official or officials of the municipality; and
  - (d) a councillor.
- (3)
  - (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit input to the municipality for consideration.

#### **19. Repeal**

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

<b>Provincial Notice No.</b>	<b>Title</b>	<b>Extent of repeal</b>
P.G. 1476 dated 2/2/2006	Nxuba Local Municipality: Street Trading By-law	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: Street Trading By-law	The whole

#### **20. Short title and commencement**

This by-law may be cited as the Raymond Mhlaba Local Municipality Street Trading By-law and commences on the date of publication thereof in the Provincial Gazette.  
**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

### **RAYMOND MHLABA MUNICIPALITY: STREET TRADING BY-LAW: OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

<b>Section Contravened</b>	<b>Description of Offence</b>	<b>Proposed Fine (1)</b>	<b>Approved Fine (2)</b>
3(1)r/w 14	Conducting the business of a street trader without the written permission (permit) of the municipality.	1000	1000
4(2)(a) r/w 14	Trading in any prohibited or restricted area indicated by a notice board or sign.	2000	2000
4(2)(b)(i) r/w 14	Trading outside the boundaries set aside for street trading.	1000	1000
4(2)(b)(ii) r/w 14	Trading after hours permitted.	500	500
4(2)(b)(iii) r/w 14	Trading with goods or services which is restricted or prohibited.	1000	1000
4(2)(c) r/w 14	Trading in an area that has been let or otherwise allocated.	1000	1000
5(1)(a) r/w 14	Trading in a garden or park.	500	500
5(1)(b)(i) r/w 14	Trading on a verge contiguous to a building belonging to the State or Municipality.	500	500
5(1)(b)(ii) r/w 14	Trading on a verge contiguous to a church or place of worship.	500	500
5(1)(b)(iii) r/w 14	Trading on a verge contiguous to a National monument.	500	500
5(2)(a) r/w 14	Trading in a place declared by the municipality under section 6A (2) (a) of the Act as a place in which street trading is prohibited.	1000	1000
5(2)(b) r/w 14	Obstructing the use of the sidewalk to pedestrians.	500	500
5(2)(c) r/w 14	Trading within 5 metres of an intersection as defined in Regulation 322 of National Road Traffic Act, 1996.	500	500
5(2)(d)(i) r/w 14	Obstructing a fire hydrant.	500	500
5(2)(d)(ii) r/w 14	Obstructing the entrance to or exit from a building.	500	500
5(2)(d)(iii) r/w 14	Obstructing vehicular traffic.	1000	1000
5(2)(d)(iv) r/w 14	Obstructing access to a pedestrian crossing, a parking or loading bay.	1000	1000
5(2)(d)(v) r/w 14	Obstructing access to public facilities.	500	500
5(2)(d)(vi) r/w 14	Obscuring a road traffic sign.	500	500
5(2)(d)(vii) r/w 14	Obscuring a marking, notice or sign.	500	500

5(2)(e) r/w 14	Trading near residential premises where the owner or occupier objects.	500	500
5(2)(f) r/w 14	Trading on a sidewalk or public amenity in contravention of a notice or sign.	500	500
5(2)(g) r/w 14	Trading within 10 metres of the entrance to a financial institution of electronic banking facility	500	500
5(3)(a) r/w 14	Not complying with conditions of the lease of allocation.	500	500
5(3)(b) r/w 14	Failing to be in possession of written proof of approval.	500	500
5(3)(c) r/w 14	Transferring proof that an area or stand was allocated to him or her without the municipality's approval	1000	1000
6(1)(a) r/w 14	Failing to remove property.	500	500
6(1)(b) r/w 14	Failing to remove property when requested by an authorised official to carry out any work in relation to a public road, etc.	500	500
6(1)(c) r/w 14	Failing to keep stand clean.	500	500
6(1)(d)(i) r/w 14	Littering and dumping of refuse.	500	500
6(1)(d)(ii) r/w 14	Failing to dump refuse in receptacles provided.	500	500
6(1)(e) r/w 14	Refusing to move property to permit cleaning.	500	500
6(1)(f)(i) r/w 14	Property covering exceeds 6m <sup>2</sup> in size and exceeds 3m in length.	500	500
6(1)(f)(ii)	Failing to leave a space of less than 1,5m between the walls of the shop contiguous to his stand.	500	500
6(1)(f)(iii) r/w 14	Failing to leave a space of not less 2m from the kerb of the roadway.	500	500
7(1)(a) r/w 14	Sleeping or overnighting at place of trading.	1000	1000
7(1)(b)(i) r/w 14	Placing property in a manner that constitutes a danger to any person or other property.	1000	1000
7(1)(b)(ii) r/w 14	Placing property in a manner that constitutes danger or likely to cause injury.	1000	1000
7(1)(c) r/w 14	Disposing of litter in a manhole, drain, etc.	1000	1000
7(1)(d) r/w 14	Releasing fat, oil or grease onto a public road or space or into a storm water system.	1000	1000
7(1)(e) r/w 14	Allowing smoke, fumes, noise, smells, or other substance arising from his or	1000	1000

	her activities to cause a nuisance or pollution		
7(1)(f) r/w 14	Erect a structure for the purpose of providing shelter, except for a temporary structure to provide shelter against the weather in which case the said shelter must be removed at the end of the day's business	500	500
7(1)(g) r/w 14	Placing his or her property on the surface of a public road or in a public amenity	500	500
7(1)(h) r/w 14	Parking vehicle or trailer from which trade is conducted in a manner to cause obstruction to pedestrians or vehicular traffic.	1000	1000
7(1)(i) r/w 14	Displaying his or her goods or other property on or in a building, without the consent of the owner, lawful occupier or person in control	1000	1000
7(1)(j)	Attaching an object to a building, structure, sidewalk, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public amenity	1000	1000
7(1)(k) r/w 14	Carrying on his or her business in such a manner as to – (i) create a nuisance; (ii) damage or deface the surface of a public road or public amenity or public or private property; or (iii) create a traffic hazard;	1000	1000
7(1)(l) r/w 14	Making an open fire that poses a health or environment hazard to any person or property or to street furniture	1000	1000
7(1)(m)(i) r/w 14	Dumping or depositing litter on any premises.	500	500
7(1)(m)(ii)	Dumping or depositing litter on any public road or amenity.	500	500
7(1)(m)(iii) r/w 14	Dumping or depositing litter on any public or private property.	500	500
7(1)(n) r/w 14	Storing his or her property in a manhole, storm water drain, public toilet, bus shelter, on the median between traffic lanes or in a tree	500	500
7(1)(o) r/w 14	Carrying on street trading in a place or area in contravention of any prohibition or restriction approved by	1000	1000

	the municipality		
7(1)(p) r/w 14	Trading in front of a formal business in similar goods	500	500
7(1)(q) r/w 14	Allowing children under the age of sixteen to accompany him or her trade on his or her behalf where they will be operating on a public road	1000	1000
7(1)(r) r/w 14	Trading from door-to-door in any business centre as indicated in the municipality's zoning scheme	500	500
7(1)(s) r/w 14	Causing a nuisance by insisting, begging or intimidating any person to purchase goods	500	500
8(4) r/w 14	Failing to comply with an order to remove impounded property.	500	500
8(5) r/w 14	Hindering or obstructing an authorised official in the performance of his duties.	1000	1000

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed

04/2019

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Magistrate: Middledrift

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Date Stamp

Signed

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Magistrate: Fort Beaufort

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Magistrate: Seymour.....  
Date Stamp**SCHEDULE 1****Confiscated Goods Register Information***(Section 9)*

A confiscated goods register must, at least, contain the following information –

1. Place where goods are kept
2. Date of receipt of goods
3. Number and description of goods
4. Name and address of person who seized the goods
5. Name and address of owner of goods
6. Name and address or description of place where goods were found
7. Distance between place where animal was seized and pound
8. Date of sale of goods
9. Proceeds of sale of goods
10. Name and address of purchaser
11. Excess amount (if any) paid to owner or municipality
12. Receipt number



**RAYMOND MHLABA LOCAL MUNICIPALITY:  
BY-LAW RELATING TO ROADS AND STREETS**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Raymond Mhlaba Local Municipality, enacts as follows:-

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**CHAPTER 1: DEFINITIONS, PURPOSE AND OBJECTIVES**

**1. Definitions**

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:–  
"**animals**" mean any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches, indigenous mammals and other wild animals;

"**drunk**" means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

"**municipality**" means the Municipality of Raymond Mhlaba Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (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 this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“municipal area”** means the area of jurisdiction of Raymond Mhlaba Local Municipality as determined in terms of the Municipal Demarcation Act, 1998;

**“municipal manager”** means a person appointed in terms of section 82 of the Municipal Structures Act, 1998;

**“motor vehicle”** means any self-propelled vehicle and includes –

- (a) a trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include –
  - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
  - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

**“public place”** means any square, building, park, recreation ground or open space which:–

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**“sidewalk”** means that portion of a street between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

**“street”** means any street, road, cycle path, thoroughfare or any other place, including –

- (a) the verge of any such road, street or thoroughfare
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been –
  - (i) dedicated to the public;
  - (ii) used without interruption by the public for a period of at least thirty years;
  - (iii) declared or rendered such by the municipality or other competent authority, or
  - (iv) constructed by a local authority, and
  - (v) any land, with or without buildings or structures thereon, which is shown as a street on –
    - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
    - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General’s office;

unless such land is on such plan or diagram described as a private street;

**“vehicle”** means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

**“work”** means work of any nature whatsoever undertaken on any land under the jurisdiction of Raymond Mhlaba Local Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of new building or alterations or additions to any existing building, excavations, the building of bridges and crossings over sidewalks, the laying of cables and pipes, the dumping of building or other

material anywhere in a street or delivery to or removal from any site of any soil or material of any nature whatsoever.

## **2. Purpose and objectives**

The Raymond Mhlaba Local Municipality, acting under the Constitution and relevant legislation, and being aware of its duty to control the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area, adopts this by-law to provide mechanisms and guidelines for such control and management.

## **CHAPTER 2: GENERAL PROVISIONS RELATING TO ROADS AND STREETS**

### **3. Streets and sidewalks**

- (1) No person may –
  - (a) make, construct, reconstruct, or alter a street or sidewalk –
    - (i) except with the written permission of the municipality, or
    - (ii) otherwise than in accordance with the requirements prescribed by the municipality, or
  - (b) construct a veranda, stoep, steps or other projection or erect a post in a street except with the written permission of the municipality.
- (2) A person who contravenes the provisions of this section is guilty of an offence.

### **4. Advertisements in streets**

- (1) No person may display any advertisement, placard, poster or bill in a street –
  - (a) except with the written permission of the municipality, and
  - (b) subject to such conditions as may be determined by the municipality.
- (2) This section shall not be applicable to signs that have been exempted under the provisions of the municipality's applicable by-law relating to Advertising Signs.
- (3) A person who contravenes the provisions of this section is guilty of an offence.

### **5. Animals or objects causing an obstruction**

- (1) No person may –
  - (a) deposit or leave any goods or articles in a street, or in an area designated therefore, other than for a reasonable period during the course of the loading, off-loading or removal thereof, or
  - (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a pram or wheelchair which is being used for the conveyance of children or the disabled), or
  - (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street –
    - (i) except with the written permission of the municipality, and
    - (ii) subject to such conditions as may be determined by the municipality.
- (2) A person who contravenes the provisions of section (1) commits an offence.

### **6. Trees in streets**

- (1) The management and protection of trees in roads, streets or public places will be undertaken in terms of the municipality's tree policy and any person who

wishes to plant, remove, prune or cut down any tree or shrub in a road, street or public place must obtain the permission of the municipality to do so.

- (2) A person who contravenes the provisions of section (1) commits an offence.

#### **7. Trees or growth causing an interference or obstruction**

- (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or cause damage or blockage to any water or sewerage system or is a source of annoyance, damage, danger or inconvenience to persons using a street, the municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (2) Any person failing to comply with a notice issued in terms of subsection (1) commits an offence.
- (3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.
- (4) When any interference, damage or blockage caused by any tree or growth contemplated in subsection (1) requires immediate action to prevent further damage, danger or inconvenience, the municipality may take any action necessary to remove such tree or growth without notification to the owner or occupier contemplated in subsection (1) at the expense of such owner or occupier.

#### **8. Refuse, motor vehicle wrecks, waste material, etc.**

No person may –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street, or
- (b) permit any such objects or substances to be dumped or placed in a street from premises owned or occupied by him,

except with the written permission of the municipality and subject to such conditions as may be determined by the municipality.

#### **9. Parking of heavy vehicles and caravan**

- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy vehicles, park on the same street or sidewalk-
- (a) a motor vehicle with a tare exceeding 3500 kg;
- (b) a trailer;
- (c) a semi-trailer;
- (d) a caravan; or
- (e) boat.
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

#### **10. Parking attendants**

- (1) No person may, in exchange for money or some other thing of value or in anticipation thereof:
- (a) direct the operator or occupant of a motor vehicle to a public parking space; or

- (b) provide any other parking or related services in a public place.
- (2) Notwithstanding subsection (1), the municipality may, subject to such requirements and conditions as determined by it on application by a person or organisation, permit such person or organisation, upon payment of a fee, to direct the operator or occupant of a vehicle to a public parking space or to provide any other parking or related service.

### **11. Encroachments**

- (1) Subject to section 3 and to such further conditions as it deems necessary, the municipality may by agreement permit encroachment on municipal property or the erection or maintenance of a veranda, balcony, sign, projecting sign or similar structure which projects in or over any street or public place.
- (2) When any immovable property owned by a municipality or under the control or management of the municipality is encroached upon without permission, the municipality may take the steps necessary to remove or regularise such encroachment.
- (3) The municipality may reduce the extent of a public place or street that is encroached upon by the extent of the encroachment or by such greater extent as may be desirable.
- (4) A permit issued under subsection (1) is, for the purposes of subsection (2), deemed to be a regularisation of the encroachment referred to in such permit.
- (5) A person who wishes to obtain the permission of the municipality as contemplated in subsection (1) must complete and submit to the municipality the prescribed form, and the municipality may issue a permit subject to the prescribed fee having been paid.
- (6) A person who contravenes a provision of subsection (5) commits an offence, and a person who fails to comply with any condition imposed under subsection (1) commits an offence and the municipality may, in addition to any other penalty which may be imposed –
- (a) demolish, remove or fill in the projection or projecting structure concerned; or
- (b) cause such projection or projecting structure to be demolished, removed or filled in, at the cost of the owner thereof or the person responsible for such encroachment..

## **CHAPTER 3: PROHIBITION OF CERTAIN ACTIVITIES IN ROADS AND STREETS**

### **12. Vehicle repairs in streets**

No person may, in a street –

- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
- (b) clean or wash a vehicle.

### **13. Games and other acts in streets**

No person may –

- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street; or
- (b) do anything in a street which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public

unless such street is provided with clear signs and identifiable paving and furniture which distinguishes it as “residential erf” or “street park”.

#### **14. Use of explosives**

No person may in or upon a street use explosives or undertake blasting operations -

- (a) except with the written permission of the municipality, and
- (b) subject to such conditions as may be determined by the municipality.

#### **15. Conveyance of animal carcasses or other waste products through streets**

No person may carry or convey through a street the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand –

- (a) unless it is properly covered, and
- (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street.

#### **16. Fences on street boundaries**

Subject to the By-law relating to Fences and Fencing, no person may erect a barbed-wire-, razor wire-, electrified fence or other dangerous fence on the boundary of a street except with the written permission of the municipality.

#### **17. Building materials in streets**

No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a street except with the written permission of the municipality, and subject to the requirements prescribed by the municipality.

#### **18. Balconies and verandas**

No person may, except with the written permission of the municipality –

- (a) use a balcony or veranda erected beyond the boundary line of a street for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
- (b) enclose or partition a balcony or veranda erected beyond the boundary line of a street or portion thereof as a living or bedroom.

#### **19. Drying of washing on fences on boundaries of streets**

No person may dry or spread washing on a fence on the boundary of a street.

#### **20. Damaging of notice-board**

No person may deface, damage or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street.

#### **21. Street, door-to-door collections and distribution of handbills**

- (1) No person may –
  - (a) collect or attempt to collect money in a street or organise or in any way assist in the organisation of such collection, except with the written

permission of the municipality and subject to such conditions as may be determined by the municipality;

- (b) collect from door-to-door, beg or solicit or accept alms, except with the written permission of the municipality;
  - (c) distribute a handbill or similar advertising material or cause it to be distributed in any street or cause it to be placed on or in any vehicle without prior permission of the municipality.
- (2) An application fee as determined by the municipality from time to time may be levied in respect of any application in terms of subsection (1)(c).

## **22. Poison in streets**

No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street.

## **23. Roller-skating and skating on skateboards**

No person may, except with the prior written permission of the municipality, skate on roller-skates or a skateboard or a similar device in or on a street or in or upon an area where skating is prohibited by an applicable road traffic sign.

## **24. Persons to be decently clad**

No person may appear in any street without wearing any clothes or not being clothed in such a manner as decency demands, provided that this provision does not apply to a child under the age of seven years.

## **25. Amusement shows and devices**

- (1) No person may set up or use in any street or any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –
  - (a) except with the written permission of the municipality and subject to such conditions as may be determined by the municipality;
  - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
  - (c) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection; at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

## **26. Animals in a street**

No owner or person –

- (a) in charge of any wild or ferocious animal, monkey or horned cattle may allow such animals at any time to be insufficiently attended or at large in any street or may keep any such animal in such a manner as to be a danger or annoyance to the public; or
- (b) may allow, permit or cause any animal to graze or stray in or about any street.

## **27. Restriction of access to streets**

No person may, without the approval of the municipality, close or barricade any street or restrict access thereto.

**CHAPTER 4: WORK IN STREETS, PUBLIC ROADS AND SIDEWALKS AND WATER DISCHARGED ONTO ROADS AND STREETS****28. Use of vehicles that may damage street surface**

- (1) No person may –
  - (a) use a vehicle or allow it to be used in any street if such vehicle is in such a defective condition that it will or may cause damage to any street; and
  - (b) drive, push, roll, pull or propel any object, machine or other material through or along a street in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the street in any way.
- (2) If the municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street, the cost of repairs, as determined by the municipality, may be recovered from the offender.

**29. Obstruction on public roads and streets**

No person may deposit or cause to be deposited or leave or cause to be left sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on a portion of a public road, sidewalk or footpath, unless it is deposited within an enclosure in respect of which the written consent of the Municipality has first been obtained.

**30. Work in public roads or streets**

- (1) No person may undertake work in any public road or on property belonging to the municipality without prior permission being obtained in terms of the operational manual as contemplated in section 31.
- (2) A person who contravenes subsection (1) commits an offence.

**31. Norms, standards and guidelines**

- (1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures for work in public roads, streets or other property belonging to the municipality, and such norms standards and guidelines must be kept in the form of an operational manual.
- (2) The norms, standards and guidelines contemplated in subsection (1) may differentiate between communities, geographical areas and different kinds of premises.

**32. Discharge of water on public road**

- (1) No person may, without prior written permission of the municipality –
  - (a) lead or discharge water other than storm water on, over or across a public road; or
  - (b) by any means whatever, raise the level of water in a river, dam or watercourse so as to cause interference with or endanger a public road
- (2) A person who wishes to perform an action as contemplated in subsection (1), must submit to the municipality an application which contains full technical

details of the proposed action, and the municipality may refuse or grant permission and -

- (a) should the municipality refuse permission, it must supply the person with the written reasons for the refusal; or
  - (b) should the municipality grant the permission, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case.
- (3) The municipality may, subject to any law which may be applicable and after obtaining permission of the owner and the occupier of the land concerned, if any –
- (a) deviate a watercourse, stream or river if the deviation is necessary for –
    - (i) the protection of a public road or structure related to a public road; or
    - (ii) the construction of a structure connected with or belonging to a public road; and
  - (b) divert storm water from or under a public road onto private property other than land containing buildings, other structures or improvements.
- (4) The municipality must compensate the owner or occupier of the land for damage caused as a result of acting under subsection (3), with an amount agreed upon between the municipality and the owner or occupier.
- (5) Application for permission must be made on a form provided for this purpose by the municipality.
- (6) A person who contravenes subsection (1) or a condition, requirement or specification imposed or determined by the municipality in terms of subsection (2)(b) commits an offence.

### **33. Overflow of water into public roads and streets**

- (1) No person may cause or allow any water other than rainwater to flow into a public road or street.
- (2) A person who contravenes subsection (1) commits an offence.

## **CHAPTER 5: BEHAVIOUR IN STREETS**

### **34. Prohibited conduct**

No person may, in a street–

- (a) cause a nuisance to other persons by loitering, standing, sitting, lying or begging;
- (b) sleep, overnight or erect any shelter;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language or signs;
- (e) fight or act in a riotous manner;
- (f) discharge a firearm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;
- (k) be drunk or under the influence of drugs or use intoxicating liquor or drugs; or
- (l) spit.

**CHAPTER 6: DISPLAY OF STREET NUMBERS****35. Street numbers**

- (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises in terms of section 39(c) must be displayed and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) A number displayed as contemplated by subsection (1) must—
  - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
  - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

**CHAPTER 7: GENERAL POWERS OF THE MUNICIPALITY****36. Municipality may act and recover costs**

- (1) Notwithstanding any other provisions of this by-law, the municipality may –
  - (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
  - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance,  
serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) shall be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

**37. Closure of or restriction of access to streets or roads**

- (1) The municipality may permanently close or divert any street or part thereof or restrict access to any street.
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2) for submission to the municipality.

**38. Temporary closure of streets or roads**

- (1) The municipality may, without complying with the provisions of section 37 – temporarily close a street –
  - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street. ;

- (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street- ;
  - (i) if such street is, in the opinion of the municipality, dangerous to traffic;
  - (ii) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (iii) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
- (2) Temporarily divert a street which has been closed in terms of subsection (1)(a).
- (3) The municipal manager may in his discretion, for general information, place a notice of temporary closure in a local newspaper.

### **39. Construction, maintenance and naming of streets**

The municipality may in its area –

- (a) make, construct, reconstruct, alter and maintain streets ;
- (b) name and re-name streets; and
- (c) allocate and re-allocate numbers to properties abutting on streets.

### **40. Declaration of streets**

- (1) The municipality may –
  - (a) declare any land or portion of land under its control to street ;
  - (b) declare any private street or portion thereof to be a public street.
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy, the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection

## **CHAPTER 8: PROCESSIONS**

### **41. Processions**

- (1) Subject to the provisions of subsection (6), no person may hold, organise, initiate, control or actively participate in a procession or gathering in a street or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street or use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections (2) and (3).
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) must submit a written application for permission, which must reach the municipality at least seven days before the date upon which any such action is intended to be performed or carried out, provided that persons who intend to participate actively in a procession, or gathering need not apply to the municipality for permission and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter

or controller has obtained the permission of the municipality. An application made in terms hereof must contain the following:

- (a) Full details of the name, address and occupation of the applicant;
  - (b) full details of the street or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times and, in the case of processions and gatherings, the number of persons expected to attend; and
  - (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (3) Any application submitted in accordance with subsection (2) shall be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not likely to be in conflict with the interests of public peace, good order or safety, the municipality may issue a certificate granting permission and imposing conditions.
- (4) The municipality may refuse to approve applications in terms of subsection (2) if an action will be in conflict with the interests of public peace, good order or safety.
- (5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, the action will be in conflict with the interests of public peace, good order or safety.
- (6) The provisions of this section do not apply to –
- (a) wedding or funeral processions; and
  - (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993).

## CHAPTER 9: GENERAL MATTERS

### 42. Appeal

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

### 43. Exemption

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

- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

#### 44. Penalty

A person who contravenes the provisions of section 3(1)(a) and (b), 4(1), (5)(1)(a), (b) and (c), 6(1), 7(1), 8 9(1), 10(1), 11(5), 12(a) and (b), 13(a) and (b), 14 to 26, 28 to 30, 32 to 35 and 41(1) and (5) is guilty of an offence and is, on conviction, and subject to penalties prescribed in any other law, liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

#### 45. Repeal of by-laws

Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law, are hereby repealed.

#### 46. Short title and commencement

This by-law will be known as the Raymond Mhlaba Local Municipality: By-law Relating to Roads and Streets and shall come into operation on the date of publication thereof in the Provincial Gazette **By-law published in Provincial Gazette number 4184 dated 11 February 2019.**

### RAYMOND MHLABA ROADS AND STREETS BY-LAW: OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
3(a)r/w 44	Making or constructing a street or sidewalk without permission.	500	500
3(b) r/w 44	Constructing a stoep or verandah etc in a street or public place.	500	500
4(1) r/w 44	Displaying a sign or advertisement without permission.	500	500
5(a) r/w 44	Leaving or depositing goods in a street.	500	500
5(b) r/w 44	Obstructing pedestrian traffic on a sidewalk.	500	500
5(c) r/w 44	Causing a blind, post, etc. to project over a street.	500	500
6(1) r/w 44	Planting or removing trees without permission.	500	500
7(1) r/w 44	Failing to comply with notice to prune or remove trees or growth within a	500	500

	specified period.		
8(a) r/w 44	Dumping or leaving refuse in a street.	500	500
8(b) r/w 44	Permitting to dump any refuse in a street.	500	500
9(1)(a) r/w 44	Parking a motor vehicle with a tare exceeding 3500kg in a street for an uninterrupted period exceeding two hours.	500	500
9(1)(b)&(c) r/w 44	Parking a trailer or semi-trailer in a street for an uninterrupted period exceeding two hours.	500	500
9(1)(d) r/w 44	Parking a caravan in a street for an uninterrupted period exceeding two hours.	500	500
10(1)(a) r/w 44	Directing the operator or occupant of a motor vehicle to a public parking space.	500	500
10(1)(b) r/w 44	Providing any other parking or related services in a public place.	500	500
11(2) r/w 44	Failing to obtain permission for encroachment.	500	500
11(6) r/w 44	Failing to apply with conditions of encroachment.	500	500
12(a) r/w 44	Repairing or servicing a vehicle.	500	500
12(b) r/w 44	Cleaning or washing a vehicle.	500	500
13(a) r/w 44	Flying a kite or shooting a catapult etc.	500	500
13(b) r/w 44	Endangering the life or safety of any person, animal, etc.	500	500
14(a) r/w 44	Using explosives without written permission.	1000	1000
14(b) r/w 44	Failing to apply to conditions for explosives as determined by the Municipality.	1000	1000
15(a) & (b) r/w 44	Improper conveying of animal carcass or material.	500	500
16 r/w 44	Erecting any electrified fence, etc., without written permission.	500	500
17 r/w 44	Mixing materials or cutting bricks etc. without permission.	500	500
18(a) r/w 44	Using balcony for trading or storage.	500	500
18(b) r/w 44	Enclosing part of a balcony as a living or bedroom.	500	500
19 r/w 44	Drying washing on a fence or street boundary.	500	500
20 r/w 44	Defacing or damaging traffic signs or notice boards.	1000	1000
21(1)(a) r/w 44	Unauthorised collection of money.	500	500

21(1)(b) r/w 44	Unauthorised door-to-door collections.	500	500
21(1)(c) r/w 44	Distribution of handbills or materials.	500	500
22 r/w 44	Using or casting poison in a street.	1000	1000
23 r/w 44	Skating in a street in disregard of sign.	500	500
24 r/w 44	Appearing in a street while not decently dressed.	500	500
25(1) r/ 44w 44	Unauthorised setting up of circus or device for the amusement of the public.	500	500
26(a) r/w 44	Allowing a wild animal to cause danger to others.	500	500
(b) r/w 44	Allowing an animal to stray or graze in a street.	500	500
27	Unauthorised closing of a street.	1000	1000
28(1)(a) &(b) r/w 44	Using a vehicle or machine in such a manner as to damage the street surface.	1000	1000
29 r/w 44	Depositing or leaving any building material in a public road, sidewalk, etc.	500	500
30(1) r/w 44	Undertaking work in any public road or property without prior permission from the Municipality.	500	500
32(1)(a) r/w 44	Discharging or leading water on, over or across a public road.	500	500
32(1)(b) r/w 44	Raising the level of water in a river, dam, etc., that might endanger a public road.	500	500
33(1) r/w 44	Causing or allowing water to flow into a public road/street.	500	500
34(a) r/w 44	Causing a nuisance by loitering, begging, etc.	500	500
34(b) r/w 44	Sleep or overnight in a street.	500	50
34(c) r/w 44	Wash or dry clothes.	500	500
34(d) r/w 44	Using abusive or obscene language.	500	500
34(e) r/w 44	Fighting or acting in a riotous manner.	500	500
34(f) r/w 44	Discharging fire arm.	1000	1000
34(g) r/w 44	Yelling, shouting or making noise.	500	500
34(h) r/w 44	Defecating, urinating or washing in a street.	500	500
34(i) r/w 44	Soliciting a person for purposes of prostitution.	500	500
34(j) r/w 44	Gambling in a street.	500	100
34(k) r/w 44	Using intoxicating liquor or drugs in a street.	500	500
34(l) r/w 44	Spitting in a street.	500	100

35(1) r/w 44	Failing to display street number.	500	500
35(2)(a) r/w 44	Failing to display a number in a conspicuous position, etc.	500	500
35(2)(b) r/w 44	Failing to replace a number as often as needed.	500	500

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed ..... Magistrate: Middledrift	04/2019 ..... Date Stamp
Signed ..... Magistrate: Fort Beaufort	04/2019 ..... Date Stamp
Signed ..... Magistrate: Adelaide	04/2019 ..... Date Stamp
Signed ..... Magistrate: Bedford	04/2019 ..... Date Stamp
Signed ..... Magistrate: Cathcart	04/2019 ..... Date Stamp
Signed ..... Magistrate: Alice	04/2019 ..... Date Stamp
Signed ..... Magistrate: Seymour	04/2019 ..... Date Stamp



**RAYMOND MHLABA LOCAL MUNICIPALITY:  
LIQUOR TRADING HOURS BY-LAWS**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under the provisions of section 156 of the Constitution of the republic of South Africa, 1996, section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and sections 22(2)(d) and 42 of the Eastern Cape Liquor Act, 2003 (Act 10 of 2003), the Raymond Mhlaba Local Municipality, enacts as follows:-

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1. Definitions
2. Purpose of by-law
3. Application of by-law
4. Public participation and duties of municipality
5. Hours of trading
6. Vicarious responsibility
7. Appeal
8. Offences and penalties
9. Repeal
10. Short title and commencement
11. Schedules

**1. Definitions**

In this By-law, unless the context otherwise indicates –

**"Act"** means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

**"hotel"** means premises wherein or whereon the business of supplying lodging and meals is conducted or is intended to be conducted, and includes a motel, inn, bed and breakfast concern, caravan and camping park, guest-house, a lodge and a house boat;

**"licensee"** means the person to whom a licence has been issued in terms of section 46 or transferred in terms of section 65 or who is deemed to be a licensee in terms of section 89 of the Act;

**"Liquor Board"** means the Eastern Cape Liquor Board established in terms of section 4 of the Act;

**"municipality"** means the Raymond Mhlaba Local Municipality and includes any political structure, political office bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated, to such political structure, political office bearer, agent or employee;

“**official**” means any person authorised by Municipality to perform the function of an officer under this By-law and includes any member of the South African Police Services and any person appointed in terms of the Act;

“**premises**” includes any place, land, building or conveyance or any part thereof which is registered or which is seeking to be registered to trade in liquor;

“**registered premises**” means premises on or from which a licensee conducts his or her business;

“**sell**” includes supply, exchange, offer for sale, display for the purposes of sale or authorise to sell, direct to sell, or to allow a sale;

“**selling hours**” means the time during which a licensee is allowed to sell liquor in terms of Schedule 1;

“**ward committee**” means a committee as contemplated in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

## 2. Purpose of By-law

The municipality, acting in terms of the powers granted to it in the Act, adopts this By-law with the aim of regulating the hours during which liquor may be sold and matters related thereto.

## 3. Application of By-law

This By-law applies to all premises, situated within the area of jurisdiction of the municipality, on which a business in the trading of liquor is carried on or intended to be carried on.

## 4. Public participation and duties of municipality

- (1) Upon receipt of a copy of the application to sell liquor from the designated liquor officer as contemplated in section 22(2)(d) of the Act, and in order to comply with the requirements of section 42 of the Act, the municipality must –
  - (a) allow the public to have access to the application by posting a copy of the application on all municipal notice boards; and
  - (c) make available copies of such application when requested by a member of the public against payment of a fee as determined by the municipality from time to time; and
  - (b) subject to subsection (2), instruct the ward councillor in whose ward the proposed premises is situated to submit written comments.
- (2) The ward councillor who receives an instruction as contemplated in subsection (1)(b) must, within 7 days, –
  - (a) convene a ward committee meeting to solicit the ward committee members' views with regard to the application that the applicant lodged with the Liquor Board;
  - (b) convene a consultative meeting with members of the community of the area within a radius of 100 metres of the premises that are sought to be registered to discuss and solicit their views with regard to the application that the applicant lodged with the Liquor Board;
  - (c) compile and submit a report to the municipality stipulating the date of the meetings referred to in subsections (2)(a) and (b), the time of the meetings, the names and the addresses of the people who attended, indicate whether he or she objects to or recommends the application and what additional conditions he or she proposes, if any; and
  - (d) attach the minutes of the meetings referred to in subsections (2)(a) and (b).

- (3) The municipality must, within 7 days, of receipt of the ward councillors report consider such report and submit to the Board, within the prescribed period, the documents as contemplated in item 3(2) of the Regulations, Notice No. 1143 of 8 April 2004, that contains the details of the consultative process with the community, objections to the application, and recommendations.
- (4) For the purpose of considering a report as contemplated in subsection (3), an official may undertake such investigation or request such information as he or she may deem necessary for consideration by the municipality, and must submit his or her findings to the municipality.

## **5. Hours and days of trading**

- (1) The trading hours and days, of the different kinds of licences, as listed in column 1 of the Schedule, have been determined by the municipality as listed in column 2 of the Schedule and may, subject to section 4, be reviewed by the municipality from time to time.
- (2) No licensee may sell liquor from any of the premises listed in column 1 of the Schedule to a person at a time or day other than those listed in columns 2 and 3 of the Schedule.
- (3) A licensee who contravenes subsection (2) commits an offence.

## **6. Vicarious responsibility**

- (1) If the manager, agent or employee of a licensee sells liquor in contravention of section 5(2) of this by-law, the licensee is deemed to have sold such liquor, except where -
  - (a) the licensee neither connived at, permitted or allowed such sale;
  - (b) the licensee took such steps as he or she was reasonably able to take in order to prevent the sale; and
  - (c) the sale did not fall within the scope of the employment or authority of the manager, agent or employee.
- (2) The fact that a licensee has issued instructions prohibiting such sale is not in itself sufficient to prove that he or she took the steps required by subsection (1)(b).
- (3) When a licensee is liable in terms of subsection (1) the manager, agent or employee is also liable as if he or she was the licensee.

## **7. Appeal**

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

## **8. Offences and penalties**

A person who contravenes the provisions of section 5(2) is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

## **9. Repeal**

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
	Nxuba Local Municipality:	
P.G. 2024 dated 05/12/2008	Nkonkobe Local Municipality: Liquor Trading Hours By-law	The whole
P.G 2222 dated 23/10/2009	Nkonkobe Local Municipality: Reviewed Liquor Trading Hours By-laws	

#### 10. Short title and commencement

This By-law may be cited as Raymond Mhlaba Local Municipality: Liquor Trading Hours By-laws, and come into force upon publication in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

#### SCHEDULE 1

(Section 5(1))

COLUMN 1	COLUMN 2
TYPE OF LICENCE	TRADING HOURS
Licence in terms of Section 33(a) of the Act for <b>micro-manufacturing</b> and sale of liquor for consumption both <b>on and off</b> the premises. <i>(cellars, wine makers, home distillers)</i>	For consumption <b>on</b> the premises: 11:00-18:00 Monday-Sunday  For consumption <b>off</b> the premises: 09:00-18:00 Monday-Sunday
Licence in terms of Section 33(b) of the Act for the sale of liquor for consumption <b>on</b> the premises where liquor is sold. <i>(restaurant, sports club, pool bar, pub, sports bar, discotheque, jazz club, escort agency, pub and grub, tavern)</i> <i>(Night club)</i>  <i>(Hotel, casino)</i>	11:00-02:00 Monday – Saturday 11:00-23:00 Sunday  24 hours every day
Licence in terms of Section 33(c) of the Act for the retail sale of liquor for consumption <b>off</b> the premises where liquor is sold. <i>(Bottle store, retail food store, wholesaler, off-sales, boutiques)</i>	09:00-18:00 Monday-Saturday 09:00-16:00 Sunday
Licence in terms of Section 33(d) of the Act for the sale of liquor for consumption <b>on and off</b> the premises where liquor is sold. <i>(Exceptional circumstances)</i>	For consumption <b>on</b> the premises: 11:00-24:00 Monday-Thursday 11:00-02:00 Friday-Saturday 11:00-22:00 Sunday

	For consumption <b>off</b> the premises: 09:00-18:00 Monday-Saturday 09:00 -16:00 Sunday
Licence in terms of Section 33(e) of the Act for the sale and consumption of liquor <b>on</b> and <b>off</b> the premises at a <b>special event</b> . (Concert, festival, sporting event, and entertainment event)	For consumption <b>on</b> the premises: 11:00 – 23:00 Monday – Thursday 11:00 – 24:00 Friday – Saturday 11:00 – 20:00 Sunday
A <b>temporary licence</b> in terms of Section 33(f) of the Act for the sale and consumption of liquor on or off the premises. (Temporary pending approval of application – See section 48(1) of the Act)	The hours will be the same as contained in this schedule depending on the type of licence applied for.

### RAYMOND MHLABA MUNICIPALITY: LIQUOR HOURS BY-LAW – OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
5(2) r/w 5(3) r/w 8	Selling liquor at hours other than stipulated	R1000	R1000

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed

04/2019

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Magistrate: Middledrift

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Date Stamp

Signed

04/2019

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Magistrate: Fort Beaufort

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Magistrate: Adelaide

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Magistrate: Bedford	Date Stamp
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Magistrate: Cathcart	Date Stamp
Signed	04/2019
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Magistrate: Alice	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Seymour	Date Stamp



**RAYMOND MHLABA LOCAL MUNICIPALITY:  
BYLAW RELATING TO DILAPIDATED BUILDINGS AND UNSIGHTLY AND  
OBJECTIONABLE STRUCTURES**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality enacts as follows:-

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**1. Definitions**

In this bylaw, unless inconsistent with the context:-

“**municipal manager**” means the official appointed by the council of the municipality in terms of section 82 of the Local Government: Structures Act (Act 117 of 1998);  
“**owner**” means any person or legal entity that directly or indirectly own, lease, rent, acquire or exercise the powers of an owner or occupier of a property, and  
“**structure**” means anything that has been erected to serve some purpose, but is not regarded as a building.

**2. Objectives and application of by-law**

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Raymond Mhlaba Local area by regulating and controlling objectionable buildings and structures
- (2) In the implementation of this by-law, the municipality also recognised the infrastructural, social and economic disparities and inequalities resulting from the previous local government dispensation and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.
- (3) This bylaw binds the State.

**3. Delegation**

The municipal manager may delegate any power or duty conferred in this bylaw to any employee of the municipality.

#### 4. Prohibition

- (1) No owner may allow a building, earthwork or structure to fall into such a ruinous or dilapidated condition that it shows signs of becoming dangerous, or is unsightly, unhealthy, objectionable, and unsanitary, causes a nuisance to adjacent owners or is calculated to depreciate the value of properties in the area where the property of the owner is situated.
- (2) Where, in the opinion of the municipal manager:-
  - (a) a contravention of the provisions of subsection (1) exists, the municipal manager may serve a notice on the owner concerned, requiring such owner to carry out such work as may be stated in the notice; or
  - (b) a building, earthwork or structure is in such a dilapidated condition that it creates an immediate danger to life or property, the municipal manager may serve a notice on the owner concerned that the building, earthwork or structure be vacated or enclosed with a hoarding or fence to prevent entry, failing which the municipal manager may cause such steps to be taken as are necessary to remove the immediate danger.
- (3) No person may, without the prior written approval of the municipal manager, use or occupy a building, earthwork or structure in respect of which a notice in terms of subparagraph (2) (b) has been served on the owner.

#### 5. Penalties

A person who contravenes the provisions of section 3(1) read with 3(2), 3(3)(a) and (b), 4(1), (2) and (3) is guilty of an offence and is, on conviction, and subject to penalties prescribed in any other law, liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

#### 6. Repeal

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 20/02/2006	Nxuba Local Municipality: By-law Relating to Neglected Buildings and Premises	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to Neglected Buildings and Premises	The whole

#### 7. Short title and commencement

This by-law is called the By-law Relating to Dilapidated Buildings and Unsightly and Objectionable Structures and will come into operation on the date of publication thereof in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

**RAYMOND MHLABA MUNICIPALITY: DILAPIDATED BUILDINGS AND  
UNSIGHTLY AND OBJECTIONABLE STRUCTURES BY-LAW:  
OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
4(1) r/w 5	Allowing a building, earthwork or structure to fall into such a ruinous or dilapidated condition that it shows signs of becoming dangerous, or is unsightly, unhealthy, objectionable, and unsanitary, causes a nuisance to adjacent owners or is calculated to depreciate the value of properties in the area where the property of the owner is situated.	1000	1000
4(2) r/w 5	Failure to comply with notice from a municipal manager to carry out work or vacate a dilapidated building.	1000	1000
4(3) r/w 5	Using or occupying a building, earthwork or structure in respect of which a vacation notice in terms of s4(2)(b) has been served on the owner.	1000	1000

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed

04/2019

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Magistrate: Middledrift

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Date Stamp

Signed

04/2019

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Magistrate: Fort Beaufort

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Magistrate: Cathcart	Date Stamp
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Magistrate: Alice	Date Stamp
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Magistrate: Seymour	Date Stamp



**RAYMOND MHLABA LOCAL MUNICIPALITY:  
PUBLIC AMENITIES BY-LAW**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Raymond Mhlaba Local Municipality enacts as follows:-

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**1. Definitions**

In this by-law, unless the context otherwise indicates –  
"animal" means any equine, bovine, sheep, goat, pig, fowl, 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;

“**authorised officer**” means any person authorized by the municipality to perform the functions of an authorised officer under this By-law, or a member of the South African Police;

“**beach**” means the sea-shore situated within or adjoining the area in which the municipality has jurisdiction and the sea for a distance of 200 metres seaward from the low-water mark adjoining the sea-shore;

“**camp**” or “**camping**” means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or approved temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

“**camping area**” means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

“**camping permit**” means a document printed and issued by the municipality for the purposes contemplated in this by-law or the municipality’s officials receipt issued against payment of the prescribed camping charges;

“**camping site**” means any part of a camping area, demarcated or assigned for the purpose of camping thereon;

“**caravan**” means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such a vehicle is a trailer;

“**control official**” a person appointed by the municipality to exercise control over admission to a public amenity;

“**drunk**” means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

“**erect**” in relation to a notice board means construct, post, affix or place;

“**garden**” means any piece of land under the control of the municipality and maintained by it as a garden for the use of by the public;

“**mobile home**” means a factory assembled structure approved by the municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

“**municipality**” means the Municipality of Raymond Mhlaba Local established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

“**Municipal Manager**” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**nature reserve**” means a nature reserve established as a local nature reserve by the Raymond Mhlaba Local Municipality in terms of section 7(1) of Ordinance 19 of 1974;

“**notice board**” includes a sign, poster or other device on which the municipality displays information;

“**Ordinance**” means the Nature Conservation Ordinance, 1974 (Ordinance 19 of 1974);

“**person**” includes an association or organisation;

“**public amenity**” means –

- (a) any land, commonage, square, camping area, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the

- general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and
  - (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;
- “public gathering or procession”** means a procession or gathering of more than 10 people;
- “public place”** means any square, building, park, recreation ground or open space which:–
- (a) is vested in the municipality;
  - (b) the public has the right to use; or
  - (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;
- “vehicle”** means any device driven by mechanical, animal, natural or human power, and includes any craft or aircraft, but does not include a wheeled chair or a device drawn or propelled by hand and used solely for the conveyance of a child or invalid.

## 2. Principles and objectives

The municipality adopts this By-law with the aim of controlling access to and use of all public amenities owned by or under the control of the municipality.

### CHAPTER 1: GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

#### 3. Number of visitors

The municipality may determine –

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
- (b) different classes of vehicles that may be in or at a public amenity at any time and it may differentiate between public amenities.

#### 4. Admission to and control over activities in a public amenity

- (1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public and having due regard to section 6(1)(a).
- (2) The municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to -
  - (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
  - (b) kite flying, wind surfing, kite surfing and water sport activities or the use of boats or other jet propelled craft on any dam or beach under the control of the municipality;
- (3) The municipality may grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (4) The municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently –
  - (a) close a public amenity or a portion thereof; or
  - (b) suspend all or any activities thereon.

- (5) Where a person in a public amenity has committed an offence in terms of this by-law, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;
- (6) Where an official on reasonable grounds suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.

## **5. Entrance fees**

- (1) The municipality may levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.
- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice board in terms of section 6(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee which has been paid in respect of each full day which has not been utilised may, with the approval of the municipality, be repaid upon application, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket, or a person who enters a public amenity without having paid the entrance fee commits an offence.

## **6. Notice boards**

- (1) The municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
  - (a) The times, dates and conditions of entry and activities that may be undertaken;
  - (b) the fees payable; and
  - (c) a notice of closure referred to in section 4(4).
- (2) No person other than an official or other person authorised to do so in this by-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality.
- (3) A notice posted by municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

## **7. Consent required for certain activities**

- (1) No person may, without the prior written consent of the municipality at, in or upon a public amenity –
  - (a) arrange, hold, present or attend –
    - (i) a public entertainment;
    - (ii) a meeting;

- (iii) a public gathering or procession, exhibition or performance; or
  - (iv) an auction;
- (b) collect money or any other goods;
- (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work; or
- (f) engage in any form of trade.
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice board erected in terms of section 6(1).
- (3) No person may without the prior written consent of the municipality erect or establish any fence, structure, dam, shelter or anything else and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the municipality bring into, or have in his or her possession in a public amenity a firearm, and the municipality may grant consent in the following instances only:
  - (a) for the firing of blank cartridges during organised competitions or sports meetings;
  - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
  - (c) for the lawful culling of a whale, dolphin, or animal; or
  - (d) to signal distress in the instance where a proposed activity may require distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the municipality may refuse or grant consent subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the consent form in his or her possession, and must produce the form on request of an official.
- (7) A person who contravenes a provision of subsection (1) or (2) commits an offence.

## **8 Use of public amenities**

The municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

## **9. Permit**

- (1) Notwithstanding the provisions of section 4, 5(1), 5(3), and 6(1), the municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit –
  - (a) to a group of people, such as, but not limited to, a group of bona fide students; or
  - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may –
  - (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove, fauna under the supervision, control and in accordance with the instructions of an official;
    - (b) pick, collect or remove fauna;
  - (c) take or remove anything of historical or scientific importance;

- (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
- (e) remove any flora or carcass which has been plucked or hunted only if the official has –
  - (i) inspected such flora or carcass;
  - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcass; and
  - (iii) in writing authorised the permit holder to remove such flora or carcass; or
  - (iv) excavate soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

#### **10. Prescribed fees**

The municipality may determine fees payable in terms of this By-law.

#### **11. Animals**

- (1) No person may in contravention of any prohibitions displayed on a notice board bring any animal into the public amenity.
- (2) A person who is permitted to bring an animal upon a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) Any animal not under the control or apparently not under the control of a person, may, if found in or on a public amenity be impounded by the municipality and removed to a pound where it may be dealt with in terms of the by-law relating to the impoundment of animals.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

#### **12. Prohibited behaviour**

- (1) No person –
  - (a) who is drunk or under the influence of any drug may enter or remain in a public amenity, and such person will not be admitted to a public amenity;
  - (b) may in or at a public amenity –
    - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the municipality;
    - (ii) throw or roll a rock, stone or object;
    - (iii) except if authorised to do so under section 9(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
    - (iv) walk on a flowerbed;
    - (v) walk, stand, sit or lie on grass in contradiction with a notice;
    - (vi) write, paint, draw graffiti or a symbol, emblem or the like on a structure or path;
    - (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 9;

- (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
  - (ix) deface or disfigure anything provided by the municipality by pasting or affixing in any way any bills, papers, placards, notices or anything else;
  - (x) wash, polish or repair a vehicle, except emergency repairs;
  - (xi) burn refuse;
  - (xii) litter or dump any refuse, garden refuse or building materials;
  - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
  - (xiv) use or try to use anything provided by the municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
  - (xv) discard of a burning or smouldering object or throw it out of a vehicle;
  - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
  - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
  - (xviii) lie on a bench or seating place provided by the municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;
  - (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
  - (xx) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond; in contravention with a notice prohibiting such action;
  - (xxi) having an open wound on his or her body, enter any bath provided by the municipality;
  - (xxii) perform any act that may detrimentally affect the health of another person;
  - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
  - (xxiv) stay or sleep over night other than in terms of section 14;
  - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 9(2);
  - (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of section 7(4);
  - (xxvii) discharge a bow or use a slingshot or catapult;
  - (xxviii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
  - (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety; or
  - (xxx) expose his or her body or clothe indecently.
- (c) may enter –
    - (i) or leave a public amenity other than by way of the official entry and exit point;
    - (ii) a public amenity without having paid the entrance fees as contemplated in section 5(1);
  - (d) may release or introduce any wild animal, fish, bird or flora into a public amenity;
  - (e) may, in inland waters –

- (i) swim, catch fish or otherwise or angle if not authorised to do so in terms of a notice board erected in terms of section 6(1);
  - (ii) catch fish with a net;
  - (iii) feed any fish without approval of the municipality;
  - (iv) wash himself or herself or clean anything;
  - (f) may use any craft on inland waters at any place other than that which has been indicated on a notice board erected in terms of section 6(1);
  - (g) may light a fire or consume alcohol on any beach.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### **13. Vehicles**

- (1) No person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, quad bike, bicycle or any other vehicle except in accordance with the directions of the municipality.
- (2) Where a person is permitted to drive a vehicle in a public amenity he or she may not –
- (a) travel with the vehicle elsewhere than on a road constructed by the municipality;
  - (b) drive the vehicle at a speed in excess of the speed indicated on a notice board erected by the municipality.
- (3) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties while acting in an emergency.
- (4) A person who contravenes a provision of subsections (1) and (2) commits an offence.

### **14. Camping**

- (1) No person may camp on any land belonging to or which is under the control of the municipality except on a camping site within the boundaries of a camping area.
- (2) No person may camp in a camping area whether continuous or otherwise for a period exceeding three months in any period of twelve months without the written consent of the municipality.
- (3) The municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit but not for any period in excess of a further three consecutive months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights thereunder.
- (5) Reservation of camping sites will only be considered upon receipt of a written application.
- (6) The municipality may determine conditions additional to those contained in this by-law for the use of camping sites that fall under the control of the municipality.
- (7) The municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4) or any condition imposed by the municipality in terms of subsections (6) and (7) commits an offence.

### **15. Caravan parks**

- (1) The municipality may determine conditions for the establishment of private caravan parks.
- (2) The municipality may determine conditions additional to those contained in this by-law for the use of caravan parks that fall under the control of the municipality.
- (3) Any person who contravenes or fails to comply with any condition imposed in terms of sub sections (1) and (2) commits an offence.

## CHAPTER 2: MISCELLANEOUS PROVISIONS

### 16. Powers of official and offences

The official appointed by the municipality to monitor and enforce this By-law may investigate any act or omission which on reasonable suspicion may constitute an offence, and a person commits an offence if he or she -

- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution or his or her duties; or
- (b) falsely holds himself or herself out to be an official;
- (c) furnishes false or misleading information when complying with a request of an official; or
- (d) fails to comply with a request of an official.

### 17. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

### 18. Penalties

A person who contravenes the provisions of section 4(1) or , 5(6), 6(1) or (2), 7(1) to (4), 9(1) or (3), 11(1) or (2), 12(1), 13(1) or (2), 14(1), (2), (4), (6) or (7), 15(1) or (2), 16(a) to (d) is guilty of an offence and is, on conviction, and subject to penalties prescribed in any other law, liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

### 19. Limitation of liability

The municipality is not liable for any damage or loss caused by –

- (a) the exercise of any power or the performance of any duty in good faith under this By-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

### 20. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as 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 such body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **21. Presumption**

In any prosecution under this by-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

## **22. Entering into agreements**

The municipality may enter into a written agreement with any person, organ of State, local community or organisation to provide for –

- (a) the co-operative development of any public amenity; or
- (b) the co-operative management of any public amenity; and
- (c) the regulation of human activities within a public amenity.

## **23. Liaison forums in community**

- (1) The municipality may establish one or more 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 affairs of the municipality; and
  - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a public amenity exists;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for public amenities.
- (3) (a) The municipality may, when considering an application or registration in terms of this By-law request the input of a liaison forum.

- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

#### 24. Repeal of by-laws

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 20/02/2006	Nxuba Local Municipality: By-law Relating to Outdoor Facilities and Municipal Buildings	The whole
P.G. 1476 dated 20/02/2006	Nxuba Local Municipality: By-law Relating to Public Open Spaces	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to Public Open Spaces	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to the Use and Hire of Municipal Buildings	The whole

#### 25. Short title and commencement

This By-law may be cited as the Public Amenities By-law, and commences on the date of publication thereof in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019.**

### RAYMOND MHLABA MUNICIPALITY: PUBLIC AMENITIES BY-LAW: OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
5(6) r/w 18	Failing to produce entrance ticket.	500	500
6(2) r/w 18	Tampering with or altering a notice board.	1000	1000
7(1)(a)(i) – (iv) r/w 18	Arranging or presenting public entertainment, a meeting or gathering or an auction.	1000	1000
7(1)(b) r/w 18	Collecting money or any other goods.	500	500
7(1)(c) r/w 18	Display or distributing pamphlets, placards, paintings, books, etc.	500	500
7(1)(d) r/w 18	Engaging in any form of trade.	500	500
7(2) r/w 18	Undertaking an activity in disregard of notice.	500	500
7(3) r/w 18	Erecting a structure, fence, etc. without	1000	1000

	permission.		
7(4) r/w 18	Bringing in or being in possession of a fire arm.	1000	1000
9(1) r/w 18	Failing to comply with conditions of permit.	500	500
9(3) r/w 18	Failing to produce permit.	500	500
11(1) r/w 18	Bringing animals into a public amenity.	500	500
11(2) r/w 18	Failing to control an animal.	500	500
12(1)(a) r/w 18	Entering or remaining in a public amenity while under influence of liquor or drugs.	1000	1000
12(1)(b)(i) r/w 18	Breaking or damaging anything on a public amenity or failing to observe an instruction by the municipality.	1000	1000
12(1)(b)(ii) r/w 18	Throw a stone or object.	1000	1000
12(1)(b)(iii) r/w 18	Pulling out or damaging flora.	500	500
12(1)(b)(iv) r/w 18	Walking on a flowerbed.	500	500
12(1)(b)(v) r/w 18	Walking, sitting or lying on grass.	1000	1000
12(1)(b)(vi) r/w 18	Writing or painting graffiti on walls etc.	1000	1000
12(1)(b)(vii) r/w 18	Removing or excavating sand, clay or stone.	1000	1000
12(1)(b)(viii) r/w 18	Interfering with water flow or wetlands.	1000	1000
12(1)(b)(ix) r/w 18	Defacing or disfiguring municipal property.	500	500
12(1)(b)(x) r/w 18	Washing, polishing or repairing a vehicle.	500 500	500 500
12(1)(b)(xi) r/w 18	Burning refuse.	500	500
12(1)(b)(xii) r/w 18 r/w 18	Littering or dumping refuse.	500	500
12(1)(b)(xiii) r/w 18	Washing crockery or laundry or hanging out clothes.	500	500
12(1)(b)(xiv) r/w 18	Using amenities for purposes not designed for.	500	500
12(1)(b)(xv) r/w 18	Throwing away burning objects.	1000	1000
12(1)(b)(xvi) r/w r/w 1818	Behaving in a disorderly manner.	500	500
12(1)(b)(xvii)	Defecating, urinating or undressing.	500	500
12(1)(b)(xviii) r/w 18 r/w 18	Lying or using facilities in a manner that makes it impossible for other users to use.	500	500
12(1)(b)(xix) r/w 18	Playing or sitting on equipment designated for children under 13.	500	500

12(1)(b)(xx) r/w 18	Swimming or playing in a pool or pond in disregard of notice.	500	500
12(1)(b)(xxi) r/w 18 r/w 18	Entering a pool with an open wound on body.	500	500
12(1)(b)(xxii)	Performing an act which constitutes danger to health of others.	500	500
12(1)(b)(xxiii) r/w 18	Entering or using toilets for use by opposite sex.	500	500
12(1)(b)(xxiv) r/w 18	Staying or sleeping overnight other than camping.	500	500
12(1)(b)(xxv) r/w 18	Hunting or killing animals or destroying nests and eggs.	500	500
12(1)(b)(xxvi) r/w 18	Discharging a fire arm.	1000	1000
12(1)(b)(xxvii)	Discharging a bow or use a slingshot.	500	500
12(1)(b)(xxviii) r/w 18	Interfering with safety or convenience of others.	500	500
12(1)(b)(xxix)	Playing games in a manner that causes danger to others.	500	500
12(1)(b)(xxx) r/w 18	Exposing body or clothing indecently.	500	500
12(1)(b)(xxxi) r/w 18	Discarding of burning or smoldering object.	500	500
12(1)(c)(i) r/w 18	Entering or leaving a public amenity other than at official point of entry or exit.	500	500
12(1)(c)(ii) r/w 18	Entering amenity without paying entrance fees.	500	500
12(1)(d) r/w 18	Releasing a wild animal, bird, fish or flora.	500	500
12(1)(e)(i) r/w 18	Swimming, catching fish or angling in inland waters.	500	500
12(1)(e)(ii) r/w 18	Catching fish with a net in inland waters.	500	500
12(1)(e)(iii) r/w 18	Feeding any fish without approval in inland waters.	500	500
12(1)(e)(iv) r/w 18	Washing or cleaning in inland waters.	500	500
12(1)(f) r/w 18	Using craft on inland water in disregard of notice.	500	500
12(1)(g) r/w 18	Lighting a fire or consuming alcohol on a beach.	500	500
13(1) r/w 18	Bring any vehicle into a public amenity.	500	500
13(2)(a) r/w 18	Traveling on road other than constructed by the municipality.	500	500
13(2)(b) r/w r/w 1818	Exceeding speed limits.	Traffic fine	Traffic fine
14(1) r/w 18	Camping on land other than camping area.	500	500
14(2) r/w 18	Camping in a camping area for more than 3 months.	500	500

14(4) r/w 18	Occupying a camping site with a different name appearing on the camping permit.	500	500
14(6) r/w 18	Failing to comply with camping conditions.	500	500
14(7) r/w 18	Failing to comply with establishment conditions for private camping area.	500	500
15(1) r/w 18	Failing to comply with conditions of establishment of private caravan parks.	500	500
15(2) r/w 18	Failing to comply with conditions for use of caravan parks.	500	500
16(a) r/w 18	Threatening, hindering or obstructing an official in the exercise of his/her duties.	500	500
16(b) r/w 18	Falsely holding him out to be an official.	500	500
16(c) r/w 18	Furnishing false or misleading information.	500	500
16(d) r/w 18	Failing to comply with a request by an official.	500	500

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed ..... Magistrate: Middledrift	04/2019 ..... Date Stamp
Signed ..... Magistrate: Fort Beaufort	04/2019 ..... Date Stamp
Signed ..... Magistrate: Adelaide	04/2019 ..... Date Stamp
Signed ..... Magistrate: Bedford	04/2019 ..... Date Stamp
Signed ..... Magistrate: Cathcart	04/2019 ..... Date Stamp
Signed ..... Magistrate: Alice	04/2019 ..... Date Stamp

Signed

04/2019

.....  
Magistrate: Seymour

.....  
Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY FIRE SAFETY BY-LAW

By-law published in Provincial Gazette number 4184 dated 11 February 2019

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality enacts as follows:-

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### 1. Definitions

In this by-law, unless inconsistent with the context:-

**“authorized official”** means an official of the municipality authorized by the municipal manager to administer, implement and enforce the provisions of this by-law;

**“municipal manager”** means the official appointed by the council of the municipality in terms of section 82 of the Local Government: Structures Act (Act 117 of 1998);

“**chief fire officer**” means the person in charge of the fire service of the municipality;  
“**Council**” means the council of the municipality;  
“**fee**” means a fee determined and imposed by the Council in terms of the Tariff Policy By-law;  
“**fire installation**” means any apparatus, equipment, water piping or electrical wiring installed on a property for the prevention, discovery and fighting of fires and includes, but is not limited to, measures such as fire breaks;  
“**owner**” also means lessee, occupier, householder, the person in control of any premises, or any person who obtains a benefit from the premises or is entitled thereto;  
“**person**” includes a juristic person;  
“**premises**” means any immovable property, whether improved or not, or part thereof;  
“**publish**” means:-  
    (a) to publish a notice in the Provincial Gazette, and  
    (b) to provide interested parties with copies of such publication, and  
    (c) to post the notice so published on the notice boards of the municipality.  
“**surveillance**” means the observation of premises, situations, processes, activities and equipment and apparatus, mainly for the purpose of the prevention of fires and emergencies, and  
“**Tariff Policy By-law**” means the Tariff By-law promulgated by the Council in terms of section 75 of the Local Government: Municipal Systems Act, No 32 of 2000, or pending such promulgation, a decision by the Council in terms of section 75A of that Act to levy and recover fees, charges or tariffs.

## CHAPTER 1: ADMINISTRATIVE PROVISIONS

### 2. Application and purpose of this by-law

- (1) This by-law binds any organ of state.
- (2) This by-law does not derogate from the provisions of the fire Brigade Services Act, Act 99 of 1987.
- (3) Unless the contrary is proved, a breach of this by-law committed on premises in respect of the fire installation shall be deemed to be a breach by the owner of the premises;
- (4) Any provision of this by-law conferring any power or imposing any duty upon the chief fire officer or any person in the service of the municipality also applies in respect of-
  - (a) any person or thing on any land or premises;
  - (b) any matter relating to such land, premises, person or thing, as if such land or premises, as the case may be, were owned and occupied by a private person.

### 3. Agreements relating to fire matters

The Council may enter into agreements in regard to any matter relating to firefighting or fire protection with any other municipality, government or provincial department, agency or person, if it is to the benefit of the municipality.

### 4. Guidelines, standards and requirements in regard to fire matters

- (1) The chief fire officer may, for the purposes of:-
  - (a) preventing the outbreak or spread of fires;
  - (b) fighting or extinguishing fires;
  - (b) fighting or extinguishing fires or other threatening dangers, or
  - (d) the rescue of life or property from fire or other danger,

compile and publish guidelines, standards and requirements, provided that different guidelines, standards and requirements may be published for different areas, types of properties and uses of properties.

- (2) The guidelines, standards and requirements contemplated in subsection (1), may only be of a technical nature and may include, but is not limited to, the following:
- (a) the fire protection of buildings, including tents and temporary buildings;
  - (b) the fire protection of mountains, open spaces and agricultural areas;
  - (c) the maintenance of, and compliance with, fire protection measures for mountains, open spaces and agricultural areas;
  - (d) the provision, testing and maintenance of fire safety equipment;
  - (e) public safety measures, including emergency evacuation plans;
  - (f) the accumulation and storage of combustible materials and waste;
  - (g) measures to safeguard sources of ignition, including smoking;
  - (h) fire hazards and flammable substances, including the storage thereof; and
  - (i) the transport of dangerous goods.
- (3) The measures contemplated in subsection (2) may include the compliance with any national standards.
- (4) The chief fire officer may, for the purposes contemplated in subsection (1) (a) to (d), require from any person to comply with any requirement, whether or not such requirement was published.
- (5) Any person who, for the purposes of conducting any activity that is subject to guidelines, standards and requirements published in terms of this by-law, is required to comply with such guidelines, standards and requirements-
- (a) before commencing with such activity; and
  - (b) for the duration of such activity.

## **5. Appointment of authorized officials**

The municipal manager may appoint employees of the Council as authorized officials.

## **6. Delegation**

- (1) The municipal manager may delegate any of his or her functions and duties in terms of this by-law to any official.
- (2) The chief fire officer may, with the exclusion of those functions mentioned in section 3 of this by-law, delegate any of his or her functions and duties to any official.

## **7. Compliance notices**

- (1) When an authorized official finds that a provision of this by-law is contravened or that a condition has arisen that has the potential to lead to a contravention of this by-law, such authorized official may issue a compliance notice to the owner concerned or person who is contravening the provisions of this by-law.
- (2) A notice issued in terms of subsection (1) must state:-
- (a) the provision of the by-law that is being contravened or will be contravened if the condition is allowed to continue;
  - (b) measures that must be taken to rectify the condition, and
  - (c) the time period in which the notice must be complied with.
- (3) If a person on whom notice was served in terms of subsection (2), fails to comply to the requirements of the notice, the chief fire officer may take such steps as may be necessary to rectify the condition at the cost of the person responsible.

## **8. Imminent emergencies and situations that require immediate action**

- (1) In cases where imminent emergencies or situations that require immediate action come to the attention of the chief fire officer, he or she may take any reasonable measures to prevent or eradicate such imminent emergencies or situations.
- (2) Measures contemplated in subsection (1) include, but is not limited to:-
  - (a) the evacuation of premises;
  - (b) the closure of premises until such time as a situation has been rectified;
  - (c) an order for compliance to any requirement necessary to abate the emergency;
  - (d) an order for the cessation of any activity, and
  - (e) an order for the removal of the immediate threat.
- (3) When an imminent emergency or situation as contemplated by subsection (1) occurs on private property, the chief fire officer may, in the event that the owner cannot be found or the owner fails to immediately comply to the requirements of the chief fire officer, take such measures as may be deemed necessary to prevent or eradicate the imminent emergency or the situation at the cost of the owner.
- (4) In the case of action taken as contemplated by subsection (3), the chief fire officer reports the matter to the municipal manager without delay.

## **9. Duties of the public**

Every member of the public must, on becoming aware of any emergency or imminent situation that requires immediate attention, immediately inform the Fire Brigade.

## **10. Recovery of costs**

- (1) Any person committing a breach of the provisions of this by-law shall be liable to compensate the municipality for any loss or damage suffered or sustained by it in consequence of such breach.
- (2) The municipality may recover any costs reasonably incurred in taking any measures in terms of this by-law from any person who was under a legal obligation to take those measures.
- (3) The municipal manager may issue a cost order requiring a person who is liable to pay costs incurred in terms of subsections (1) and (2) to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

## **11. Exemption from liability**

The Council will not be liable for any damage to property caused by the fire brigade in any action undertaken in the event of a fire or other emergency.

## **CHAPTER 2: PROTECTION OF FIRE SERVICE WORKS**

### **12. Definition of fire service works**

For the purpose of this chapter, "fire service works" means any building, infrastructure, process, equipment, apparatus or vehicle under the control of the municipality that is used in connection with the fire service.

### 13. Protection of fire service works and activities

No person may:-

- (a) render less effective, inoperative, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or testing;
- (d) remove, obscure, deface, alter, tamper with or damage a fire alarm, hydrant, transmission equipment for warning of a fire or other emergency, board, decal, metal plate or painted marker;
- (c) prevent, or obstruct in any way, members or vehicles of the fire brigade from making their way to or from a fire or emergency or carrying out their duties while attending a fire or emergency, or
- (d) without the prior written permission of the chief fire officer, and subject to such conditions as the chief fire officer may impose:-
  - (i) construct, erect, or lay any building, structure, material or other thing over or in such a position or in such a manner as to interfere with or endanger any fire service works;
  - (ii) excavate, open up or remove ground above, next to, under or near fire service works;
  - (iv) damage, endanger or destroy or do any act likely to damage, endanger or destroy any fire service works; or
  - (iii) discharge, permit to enter or put into any natural watercourse or reservoir from which water is taken for the purpose of the fire service, any substance or thing likely to damage it, to interfere with the free flow of water therein or to contaminate or impair the quality of the water therein.

## CHAPTER 3: PROVISIONS RELATING TO THE RENDERING OF FIRE SERVICES

### 14. Inspections and investigations

Notwithstanding anything contained in any other legislation, the chief fire officer has the authority to:-

- (a) inspect any premises, vehicle, equipment or apparatus;
- (b) investigate the cause, origin, and circumstances of any fire or situation that is or may become a threat, and
- (c) require from any person to institute measures to comply to any guideline, standard or requirement published in terms of section 3.

### 15. Surveillance powers of the chief fire officer

The chief fire officer may:-

- (a) use any legal method of surveillance;
- (b) carry out any test or install any apparatus in regard to surveillance on municipal land;
- (c) subject to the provisions of any other legislation, carry out any test or install any apparatus in regard to surveillance on any private property;
- (d) require from any owner of premises to install at own cost such apparatus as may be deemed necessary by the chief fire officer, in regard to surveillance on the premises concerned;
- (e) require from any owner of premises to provide reports, readings or measurements on any situation or process on the premises concerned, at such intervals as may be required by the chief fire officer;
- (f) require from any owner of premises to carry out surveillance tests or arrange for the carrying out of such tests by a competent person, on the premises

- concerned and to provide the chief fire officer with reports at such intervals as may be required by the chief fire officer;
- (g) when granting any approval in terms of this by-law or any other applicable legislation, require as a condition of approval that surveillance measures be instituted, maintained and reported on at such intervals as may be required by the chief fire officer;
  - (h) in consultation with the official in charge of the relevant department, instruct any municipal official to provide reports on any matter regarding surveillance, provided that such official is in a position to do so and deemed to be competent by the chief fire officer to provide such reports;
  - (i) send any samples to a competent person or laboratory for analysis, and
  - (j) in cases of emergency, employ any competent person to carry out any tests or serve as consultant on the matter concerned, provided that a report in this regard be furnished to the municipal manager as soon as possible.

## **16. Prevention of fires and emergencies**

The chief fire officer may:

- (a) when granting any approval in terms of this by-law or any other applicable legislation, require as a condition of approval that measures for the prevention of fires and emergencies be instituted, maintained and reported on at such intervals as may be required by the chief fire officer;
- (b) in a case of emergency, institute any measures deemed necessary to prevent the spread of fires and emergency situations, provided that a full report in this respect be provided to the municipal manager as soon as possible;
- (c) instruct any person to institute such measures as may be deemed necessary to prevent the spread of fires and emergencies, and
- (d) in consultation with the official in charge of the relevant department, instruct any municipal official to institute any measures or to provide any assistance necessary to prevent the spread of fires and emergencies.

## **17. Fire alarms and fire hydrants**

- (1) The chief fire officer may, without compensation to the owner of the premises concerned, cause:-
  - (a) a fire alarm;
  - (b) a transmission instrument for calls of fire or other emergency, or
  - (c) a transmission instrument for warning residents of fire or other emergency,to be affixed to any building, wall, fence, pole or tree.
- (2) The chief fire officer may, without compensation to the owner of the premises concerned, cause the position of a fire hydrant and fire alarm or any other protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.

## **18. Compliance with standards, guidelines and requirements**

Every owner of premises must comply with the standards, guidelines and requirements published or issued by the chief fire officer in regard to the prevention of fires and emergencies.

**CHAPTER 4: FIRE INSTALLATIONS****19. Provision and maintenance of fire installations**

- (1) Where required, an owner must provide and maintain the fire installation on the premises at own cost and, except where permitted in terms of this bylaw, must ensure that the installation is situated within the boundary of the premises.
- (2) Before doing work in connection with the maintenance of a portion of a fire installation, which is situated outside the boundary of the premises, an owner must obtain the written consent of the chief fire officer or the owner of the land on which such portion is situated, as the case may be.

**20. Application for approval of installation work**

- (1) If an owner wishes to have installation work done, the owner must first obtain the written approval of the chief fire officer, provided that approval is not required in the case of fire installations in dwelling units or installations where no fire installation is required in terms of any law.
- (2) An application for the approval referred to in subsection (1) must be accompanied by:-
  - (a) the fee, if applicable; and
  - (b) copies of the drawings as prescribed by the chief fire officer;
  - (c) a certificate from a registered engineer or registered architect certifying that the installation has been designed in accordance with the appropriate SABS Code or, where compliance with that standard is impractical or impossible to achieve, has been designed on another basis acceptable to the chief fire officer.
- (3) Any authority given in terms of subsection (1) lapses at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.
- (4) Where approval is required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.
- (5) If installation work has been done in contravention of subsections (1) and (2), the chief fire officer may order the owner-
  - (a) to comply with either or both subsections, as the case may be, within a specified period;
  - (b) if the work is still in progress, to cease the work; and
  - (c) to remove all such work as does not comply with this by-law.
- (6) An installation work approved in terms of subsection (1), must be inspected and a certificate of approval issued by the chief fire officer, before it can be put into service.
- (7) The chief fire officer may revoke any certificate of approval, or may alter the conditions attached to such approval.

**CHAPTER 5: FIREWORKS****21. Discharge of fireworks**

- (1) Subject to the provisions of subsection (2), no person may discharge or cause to be discharged any fireworks in streets, buildings or public places.
- (2) The chief fire officer may, subject to any conditions which may be imposed:-
  - (a) give written permission for the discharge of fireworks; and
  - (b) designate specific areas for the discharge of fireworks.
- (3) No person may sell fireworks to any person under the age of 16 years.

- (4) Unless under the supervision of an adult, no person under the age of 16 years may be permitted to be in possession of fireworks.
- (5) No person may discharge fireworks in such a manner:-
  - (a) that the possibility may be created that it may fall on adjacent properties;
  - (b) that a fire hazard may be caused, or
  - (c) that a nuisance may be caused.
- (6) Any authorized official who is a peace officer, member of the South African Police Services or Inspector of Explosives may confiscate any fireworks found in the possession of any person who is reasonably suspected of or who intends, contravening the provisions of this by-law.

## 22. Offences and penalties

A person who contravenes the provisions of section 4(4) or (5), 7(3), 9, 13, 18 19(1) or (2), 20 and 21(1), (2), (3) (4) or (5) and any person who -

- (a) contravenes or fails to comply with any provisions of this bylaw;
- (b) fails to comply with any notice issued in terms of this bylaw;
- (c) fails to comply with any lawful instruction given in terms of this bylaw; or
- (d) obstructs or hinders any authorized official in the execution of his or her duties under this bylaw –

is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

## 23. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

## 24. Repeal

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 2/2/2006	Nxuba Local Municipality: By-law Relating to Community Fire Safety	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to Community Fire Safety	The whole

## 25. Short title and commencement

This by-law may be cited as the Raymond Mhlaba Local Municipality Fire Safety By-law and commences on the date of publication thereof in the Provincial Gazette.

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

**RAYMOND MHLABA MUNICIPLAITY: FIRE SAFETY BY-LAW –  
OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

<b>Section Contravened</b>	<b>Description of Offence</b>	<b>Proposed Fine (1)</b>	<b>Approved Fine (2)</b>
4 r/w 22	Failing to comply with an instruction given by a member of the force	R1000	R1000
5 r/w22	Interference with or obstruction of the chief fire officer in execution of duties	No fine	No fine
7 r/w22	Failing to comply with conditions of certificate of fitness	R1500	R1500
9 r/w22	Fail to immediately inform the Fire Brigade of any danger .	No fine	No fine
13 r/w 22	Tamper , prevent , obstruct and interfere with fire personnel or a fire extinguisher or fire protection system , damage or destroy any fire service works	1500	1500
18 r/w 22	Not comply with the standards, guidelines and requirements	No fine	No fine
19 r/w22	Not complying in maintain the fire installation on the premises at own cost	1500	1500
20 r /w 22	Fail to request in written approval of installation work done to the chief fire officer .	1500	1500
21 r/w 22	discharge or cause to be discharged any fireworks in streets, buildings or public places.	1000	1000
<p><b>In addition to the fines above, the following admission of guilt fines relate to contraventions of the National Building Regulations (Regulation T1(2)(b) and the SANS Code Of Practice( 0400) relating to Fire Safety.</b></p>			
TT2 & TT12	<b><u>Safety Distances</u></b> Erecting a building in disregard of safety distances	R1500	R1500
TT3, TT5 & TT6	<b><u>Different occupancies</u></b> Owner or tenant allowing division of building without approval	R1500	R1500
TT4	<b><u>Maximum division area</u></b> Owner exceeding maximum division area	R1500	R1500
TT9 & TT10	<b><u>Partitions and protection of openings</u></b>	R1500	R1500

	Inadequate fire resistance and failure to protect openings		
TT12	<b><u>Roof Assemblies and Coverings</u></b> Allowing combustible material to be used on a roof structure without approval	R1500	R1500
TT16 to TT29	<b><u>Escape Routes and Exits</u></b> Allowing an escape route to be made less efficient	R1500	R1500
TT23, TT24, &TT25	<b><u>Stairways</u></b> Installing a stairway that does not comply with part M of the rules	R1500	R1500
TT29	<b><u>Markings and Sign Posting</u></b> Failing to indicate the location of fire equipment or emergency exits with symbolic signs	R1500	R1500
TT30	<b><u>Lighting of Emergency Routes</u></b> Failing to light emergency route	R1500	R1500
TT31	<b><u>Fire Detection and Alarm System</u></b> Failing to install fire detection and alarm systems in compliance with SANS 0139	R1500	R1500
TT33 &WW5	<b><u>Water Reticulation System</u></b> Failing to install an approved water reticulation system for fire fighting	R1500	R1500
TT34	<b><u>Hose Reels</u></b> Failing to supply hose reels	R1500	R1500
TT35	<b><u>Hydrants</u></b> Failing to supply fire hydrants	R1500	R1500
TT36	<b><u>Sprinkler System</u></b> Failing to supply sprinkler system where required	R1500	R1500
TT42	<b><u>Smoke Control</u></b> Failing to provide mechanical smoke ventilation or roof ventilators and windows	R1500	R1500
TT52	<b><u>Operating Theatres and Intensive Care Units</u></b> Failing to comply with the fire safety requirements of the rule	No fine	No fine
TT53	<b><u>Liquid Fuel Tanks</u></b> Installation of fuel dispensing pumps and tanks in disregard of prescribed	No fine	No fine

	measurements and distances		
TT54	<b>Gas Installations</b> Installation of gas storage facilities not complying with SANS Code 087	No fine	No fine
<p>Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:</p> <p><b>Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour</b></p> <p>This determination replaces any previous determination for the said Magisterial District.</p> <p>Signed ..... 04/2019 Magistrate: Middledrift ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Fort Beaufort ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Adelaide ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Bedford ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Cathcart ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Alice ..... Date Stamp</p> <p>Signed ..... 04/2019 Magistrate: Seymour ..... Date Stamp</p>			



## RAYMOND MHLABA LOCAL MUNICIPALITY

### BY-LAW RELATING TO IMPOUNDMENT OF ANIMALS

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the powers conferred by section 156 of Constitution, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Raymond Mhlaba Local Municipality enacts as follows:

#### ARRANGEMENT OF SECTIONS

1. Definitions
  2. Application
  3. Establishment of pound
  4. Appointment of pound keeper
  5. Trespassing or straying animals may be impounded
  6. Animals too vicious, intractable or wild to be impounded
  7. Release of animals before removal to pound
  8. Care of trespassing animals
  9. Pound to which animals must be taken
  10. Information to be supplied to pound keeper
  11. Acceptance at pound of animals to be impounded
  12. Pound register
  13. Notice to owners of animals
  14. Care of impounded animals
  15. Isolation of infected animals
  16. Impounded animals not to be worked
  17. Impounded animals that die or are stolen or injured
  18. Copies of by-laws
  19. Fees and costs payable
  20. Release of impounded animals
  21. Sale of impounded animals
  22. Pound keeper may not purchase impounded animals
  23. Animals unsuccessfully offered for sale
  24. Proceeds
  25. Action for recovery of damages
  26. Procedure to be followed in application to Court
  27. Indemnity
  28. Offences and penalties
  29. Schedules 1 and 2 form part of this by-law
  30. Repeal of by-laws
  31. Short title and commencement
- Schedule 1: Code of good practice  
Schedule 2: Pound register information

#### 1. Definitions

In these bylaws, unless inconsistent with the context –

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and “**animals**” will have a corresponding meaning;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of the Province of the Eastern Cape;

“**municipality**” means the Raymond Mhlaba Local Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**owner**” includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

- (a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- (b) land means rural or urban land and includes the owner, lessee or lawful occupier of such land or his or her agent;

“**pound**” means a pound established as contemplated in section 3;

“**pound keeper**” means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

“**public place**” means any place to which the public has access including, without limiting the generality of the foregoing any –

- (a) square;
- (b) park;
- (c) recreation ground;
- (d) sports ground;
- (e) open space;
- (f) beach;
- (g) shopping Centre on municipal land;
- (h) unused or vacant municipal land; or
- (i) cemetery;

“**public road**” means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

“**service delivery agreement**” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

## 2. Application

This by-law apply to the area of jurisdiction of the Municipality, provided that nothing prevents any animal detained in terms of this by-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

## 3. Establishment of pound

- (a) The Municipality may establish a pound at any convenient place within its area of jurisdiction, provided that the Municipality may enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.
- (b) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

## 4. Appointment of pound keeper

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(a).

#### **5. Trespassing or straying animals may be impounded**

- (1) The owner of land upon which any animal is found trespassing may seize such animal, provided that such animal may not be removed to a pound before notice is given to the owner of the animal, where the particulars of such owner are known, in writing no less than 24 hours prior to the removal to the pound.
- (2) Any animal found straying unattended upon any public road or public place may be seized for impounding by –
  - (a) a member of the South African Police Services;
  - (b) a member of the South African National Defense Force;
  - (c) a member of the Provincial Road Traffic Inspectorate;
  - (d) a member of an Animal Protection Organization;
  - (e) an authorised municipal official; or
  - (f) the owner of any land through or alongside which such road passes or which abuts on such public place.
- (3) A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than six hours without supplying such animal with adequate food and water.
- (4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

#### **6. Animals too vicious, injured, intractable or wild to be impounded**

If a veterinarian or official contemplated in section 5(2)(a) to (e) is satisfied that an animal found trespassing on any land, or straying unattended upon any public road or public place, is too dangerous, vicious, injured, intractable or wild to be impounded, he or she may authorize the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal where the particulars of such owner are known.

#### **7. Release of animals before removal to pound**

- (1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(2) for the release of such animal prior to its removal to the pound.
- (2) The owner of land referred to in section 5(1) –
  - (a) may release such animal forthwith; or
  - (b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.
- (3) The owner of an animal seized in terms of section 5(2) may apply for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

#### **8. Care of trespassing animals**

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

**9. Pound to which animals must be taken**

An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

**10. Information to be supplied to pound keeper**

A person sending animals to the pound must advise the pound keeper in writing of –

- (a) the number and descriptions of the animals;
- (b) the land upon which they were found trespassing; and
- (c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

**11. Acceptance at pound of animals to be impounded**

Subject to compliance with the provisions of section 5, the pound keeper may not refuse to accept an animal for impounding.

**12. Pound register**

- (1) The pound keeper must –
  - (a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and
  - (b) complete the pound register immediately upon the acceptance into the pound of any animal.
- (2) If the pound keeper –
  - (a) neglects or refuses to comply with any of the provisions of subsection (1);
  - (b) knowingly makes a false entry in the pound register;
  - (c) fraudulently destroys or erases any previous entry in the pound register; or
  - (d) wilfully delivers a false copy or extract from the pound register to any person,he or she commits an offence.

**13. Notice to owners of animals**

- (1) The owner of an animal contemplated in sections 5(1), 6, 14(2)(b), 15(1)(c), 17(b), 21(1)(b), and 23(a), must be notified by –
  - (a) addressing a written notice to him where his identity is known;
  - (b) placing a copy of the notice to the owner on the Municipal Notice Board; or
  - (c) publishing a copy of the notice in a newspaper that is generally in circulation in the municipality or where no such newspaper is generally in circulation, by posting a notice at the municipal offices in the town where the animal was found to be trespassing or straying.
- (2) If the details of the owner of an animal are unknown, the pound keeper must report the impoundment of the animal at the nearest police station.

**14. Care of impounded animals**

- (1) The pound keeper –

- (a) is responsible for the proper care of all impounded animals;
  - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
  - (c) is liable to the owner of an impounded animal for any damage caused by his or her willful or negligent acts or omissions.
- (2) If the pound keeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or so diseased or severely injured or in such a physical condition that it ought to be destroyed, he or she must notify a police officer and request him to act in terms of section 5 of the Animals Protection Act, 1962 (Act 71 of 1962).

#### **15. Isolation of infected animals**

If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the animal of such disease in writing where the particulars of the owner are known to him or her.

#### **16. Treatment of impounded animals**

The pound keeper –

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

#### **17. Impounded animals that die or are stolen or injured**

If an impounded animal is injured, dies or is stolen, the pound keeper must –

- (a) record the injury, cause of death or theft in the pound register referred to in section 12;
- (b) notify the owner of the animal in writing of the injury, death or theft where the particulars are known to him or her; and
- (c) in the case of theft, report the theft to the nearest office of the SA Police Service.

#### **18. Copies of by-law**

The pound keeper must ensure that copies of this by-law are available at the pound for inspection.

#### **19. Fees and costs payable**

The pound keeper must –

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this by-law or in accordance with any other law.

**20. Release of impounded animals**

- (1) Subject to subsection (2), the pound keeper must immediately release an impounded animal, and give the owner a receipt, provided that the owner –
  - (a) provides sufficient and satisfactory proof of ownership of such animal; and
  - (b) pays the fees and costs contemplated in section 19.
- (2) If an impounded animal is an animal that is required to bear an identification mark as set out in the Animal Identification Act, 6 of 2002, and if such animal does not display such mark, the municipality may report the matter to the South African Police Services and may refuse the release of such animal upon receipt of a written instruction by the South African Police Services that the animal should remain impounded.
- (3) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the pound keeper may retain such animal in order to recover such fees or costs as may be due and payable.
- (4) Any risk attached to ownership of an animal will pass to the person who provided proof of ownership when the pound keeper expresses his satisfaction that sufficient proof of ownership had been provided.

**21. Sale of impounded animals**

- (1) The pound keeper must –
  - (a) whenever any impounded animal has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the animal; and
  - (b) in the application contemplated in paragraph (a), provide the Court with proof, where the particulars of the owner were known to him or her, that he or she lodged a statement as contemplated in sub-section (2) with the owner
- (2) The statement contemplated in subsection (1)(b) must include –
  - (a) the fees and costs due in terms of this by-law; and
  - (b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.
- (3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –
  - (a) summarily enquire into the matter;
  - (b) enquire whether notice was given to the owner of the animal by the pound keeper; and
  - (c) make such order as it considers just and equitable, including an order –
    - (i) as to costs; and
    - (ii) on the process to be followed by the pound keeper in the sale of the animal.

**22. Pound keeper, councilor and official may not purchase impounded animals**

The pound keeper, any municipal official or any municipal councilor or a family member, or a close associate of such pound keeper, municipal employee or councilor, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

**23. Animals unsuccessfully offered for sale**

- (1) In the event that any animal is not sold as contemplated in section 21 –
  - (a) the pound keeper must immediately advise the Court and the owner, where the particulars of such owner are known to him or her, of its estimated value and the fees and costs incurred; and
  - (b) the Court may make such order as it may deem just and equitable.
- (2) If any animal that is not normally put up for sale at an auction is not claimed by its owner within 3 days of a written notice of such impoundment being served on the owner or within 3 days after the placement of an advertisement of such impoundment in terms of section 13, such animal may be put down and the costs for maintaining and putting such animal down may be recovered from the owner.

**24. Proceeds**

All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund, provided that in the event that any impounded animal is sold at a price in excess of –

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

**25. Action for recovery of damages**

Nothing in this by-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

**26. Procedure to be followed in application to Court**

An application to Court for –

- (a) the impoundment of an animal in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

**27. Indemnity**

The Municipality, pound keeper and any officer, employee, or agent of the Municipality will not be liable for the death of, injury to or theft of any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

**28. Offences and penalties**

A person who contravenes the provisions of section 5(1), (3) or (4), 8, 9, 10, 12(2), 16 or 22 is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not

exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention

### 29. Schedules 1 and 2 form part of this by-law

Schedules 1 and 2 to this by-law form part of this by-law for all purposes.

### 30. Repeal of existing By-laws

Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law, are hereby repealed.

### 31. Short title and commencement

This by-law will be called the By-law relating to Impoundment of Animals and it will come into effect upon publication in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

## RAYMOND MHLABA MUNICIPALITY: IMPOUNDMENT OF ANIMALS BY-LAW: OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
5(1)r/w 28	Removing an animal to a pound before notice is given to the owner of the animal, where the particulars of such owner are known, in writing no less than 24 hours prior to said removal.	500	500
5(3) r/w 28	Keeping an animal intended for impoundment for a period longer than 6 hours and failing to supply said animal with adequate food and water.	500	500
5(4) r/w 28	Failing to abide by the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.	500	500
8 r/w 28	Working, using or ill-treating an animal found trespassing on any land or whilst it is in the process of being removed to a pound.	500	500
9 r/w 28	Failure to remove an animal to the nearest accessible pound by the fastest route and/or failing to keep species of animal separate during said transport.	500	500
10 r/w 28	Failure to provide accurate or correct details to the pound keeper.	500	500
12(2)(a) r/w 28	A pound keeper neglecting or refusing to maintain a pound register.	500	500
12(2)(b) r/w 28	A pound keeper knowingly making a false entry into the pound register.	500	500

12(2)(c) r/w 28	A pound keeper fraudulently destroying or erasing a previous entry within the pound register.	500	500
12(2)(d) r/w 28	A pound keeper willfully delivering a false copy or extract from the pound register to any person.	500	500
16(a) r/w 28	A pound keeper working or in any way making use of an impounded animal or permitting any such animal to be worked or made use of by any other person.	500	500
16(b) r/w 28	A pound keeper failing to ensure that all impounded male animals are at all times kept apart from female animals.	500	500
22 r/w 28	A pound keeper, any municipal official or any municipal councilor or a family member, or a close associate of such pound keeper, municipal employee or councilor, purchasing an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.	500	500

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed ..... Magistrate: Middledrift	04/2019 ..... Date Stamp
Signed ..... Magistrate: Fort Beaufort	04/2019 ..... Date Stamp
Signed ..... Magistrate: Adelaide	04/2019 ..... Date Stamp
Signed ..... Magistrate: Bedford	04/2019 ..... Date Stamp
Signed ..... Magistrate: Cathcart	04/2019 ..... Date Stamp

Signed	04/2019
.....	.....
Magistrate: Alice	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Seymour	Date Stamp

**SCHEDULE 1**  
**Code of Good Practice on the Handling and Transportation of Impounded**  
**Animals**  
*(Section 5(4))*

**PART I: Paddock requirements**

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
  - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
  - (b) water troughs with an adequate supply of suitable fresh water at all times;
  - (c) sufficient facilities for the adequate cleaning of paddocks; and
  - (d) facilities for the safe handling of animals.
6.
  - (a) The paddocks must at all times be maintained in a good state of repair.
  - (b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

**PART II: Handling of animals**

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –

- (a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
  - (b) herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
  11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
  12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
  13. Electric prodders, sticks or goads may not be used on young calves.
  14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

### **PART III: Movement of animals**

15. Animals driven on the hoof must at all times be under proper and competent supervision.
16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
18. No animal on the hoof may be moved in excess of the following distances –
  - (a) during a journey of not more than one day's duration –
    - (i) 20 kilometres for sheep and goats; and
    - (ii) 30 kilometres for cattle; and
  - (b) during a journey of more than one day's duration –
    - (i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
    - (ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

**PART IV: Vehicles used in transporting animals**

- 22.** Vehicles and all trailers used in the transport of hooved animals must be suitable for the transport of such animals and in a roadworthy condition.
- 23.** All vehicles and trailers referred to in item 22 must have –
- (a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;
  - (b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
  - (c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;
  - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that –
    - (i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
    - (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
    - (iii) the minimum height must be 750 millimetres in the case of any smaller animals;
  - (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
  - (f) floors that are solid and impervious;
  - (g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
  - (h) gates, with or without partitions –
    - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
    - (ii) that open and close freely and are able to be well-secured.
- 24.** The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –
- (a) 1,4 square metres per large animal; and
  - (b) 0,5 square metre per small animal.

**PART V: Watering and feeding of live animals prior to loading**

- 25.** Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

**PART VI: Loading and off-loading procedure**

- 26.** Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
- 27.** No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

28. No animals may be loaded or off-loaded otherwise than –
- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
  - (b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
29. Where a truck is equipped with an on-board removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.
31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
37. In the event of –
- (a) a breakdown of the transport vehicle;
  - (b) an accident or collision in which the transport vehicle is involved; or
  - (c) injury to, or death of, any animal in transit,
- the carrier must immediately report the details to, and request assistance from
- (i) in the case of paragraph (a), a breakdown service;
  - (ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
  - (iii) in the case of paragraph (c), a veterinarian.

#### **PART VII: Restraining of animals during transportation**

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.

40. No wire or bailing twine may be used for tying the animal's legs or feet.
41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

**SCHEDULE 2**  
**Pound register information**  
(Section 12)

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the pound keeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land where animal was seized
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance between place where animal was seized and pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution



**RAYMOND MHLABA LOCAL MUNICIPALITY:**

**BY-LAW RELATING TO THE PREVENTION OF PUBLIC NUISANCES AND  
NUISANCES ARISING FROM THE KEEPING OF ANIMALS**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality enacts as follows:-

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## 1. Definitions

In this by-law, unless the context otherwise indicates –

**“agent”**, in relation to the owner of a property, means a person appointed by the owner of the property-

(a) to receive rental or other payments in respect of the property on behalf of the owner; or

(b) to make payments in respect of the property on behalf of the owner;

**“animal”** means any equine, bovine, sheep, goat, 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 insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

**“authorised official”** means an officer authorised in terms of section 8 of the Animals Protection Act, 1962 (Act 71 of 1962) and any official of the municipality who has been authorised by the municipality to enforce the provisions of this by-law;

**“bird”** means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

**“breed”** means a population of animals which produces progeny possessing a high degree of genetic stability as evidenced by identifiable uniformity in breed standards and performance;

**“breeder”** means the owner of a breeding female animal at the time of natural or artificial conception or at the birth of progeny;

**“cattery”** means any establishment where cats are bred or boarded;

**“district municipality”** means the Eden 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 this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“drunk”** means a person who, by reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

**“kennel”** means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

**“municipality”** means the Raymond Mhlaba Local 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 or any employee acting in connection with this by-law by virtue of a power vested in the municipality

and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"municipal manager"** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility;

**"owner"** –

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

**"pet"** means a tame animal which is kept in a household;

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

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

**"poultry"** means any fowl, goose, ostrich, duck, pigeon, dove, turkey, Muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

**"premises"** means –

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

**"public nuisance"** means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and **"nuisance"** has the same meaning;

**"public place"** means any land, square, building, park, recreation ground or open space which:–

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**"responsible authority"** means the Raymond Mhlaba Local Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

**"street"** means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access;

**"structure"** means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

## **2. Objectives and application of by-law**

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Raymond Mhlaba Local area by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.
- (2) In the implementation of this by-law, the municipality also recognises the infrastructural, social and economic disparities and inequalities resulting from the previous local government dispensation and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.

- (3) Sections 4(1), 14(1), 15(1), 21(1) and 26 do not apply to –
  - (a) premises which are legally used for bona fide agricultural purposes; or
  - (b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (4) A person who keeps animals on premises contemplated in subsection (3) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

## CHAPTER 1: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

### 3. Public nuisances prohibited

- (1) No one may cause a public nuisance.
- (2) A public nuisance is created by, but is not limited to-
  - (a) the keeping of animals or reptiles, excluding pets on premises unless the premises is in terms of an applicable town planning scheme zoned as suitable for the keeping of such animals or reptiles;
  - (b) allowing an animal, reptile or dog to:-
    - (i) enter upon public or private land other than the premises where it is kept, unless under proper control and, in the case of a dog, on a leash;
    - (ii) suffer from an infectious or contagious disease, or
    - (iii) act in such a manner that a nuisance is created for adjacent residents.
  - (c) in the case of a person in control of a dog on a street or public land, failing to remove the droppings of that dog;
  - (d) the keeping of pets in such a manner that a nuisance or the potential for a nuisance is created;
  - (e) the overnight parking of more than one heavy vehicle or boat on premises which is zoned for residential purposes;
  - (f) the parking of an implement on premises which is zoned for residential purposes;
  - (g) the repairing, washing, maintenance or servicing of a heavy vehicle, boat or implement on premises which is zoned for residential purposes.
  - (h) the parking of a vehicle, heavy vehicle, boat or trailer on premises in such a manner that a part of the vehicle, heavy vehicle, boat or trailer extends over the boundaries of the premises on which it is parked.
  - (i) the letting off of a firework on or over private land in such a manner that the firework or part thereof may land on adjacent premises.
  - (j) operating a business or engaging in similar activities on residential premises, notwithstanding any approvals granted by the Council in terms of town planning legislation, to the extent that a nuisance to adjacent residents is created by:
    - (i) the increase of an activity over and above the limits and conditions determined by the Council when the application for the activity was originally approved in terms of legislation;
    - (ii) the storage of goods or materials on the premises;
    - (iv) the operation of a pump, compressor, fan or similar machinery in such a manner that a vibration or noise is caused on adjacent premises;
    - (iv) the use of spray paints or other volatile substances in such a manner that sprays, smells or gases enter onto adjacent properties;
    - (v) the manufacturing or activities related to the manufacturing of goods or materials;

- (vi) the frequency of deliveries or the calling of persons at the premises;
  - (vii) the frequency of loading or unloading of vehicles in the street or on the premises;
  - (viii) the gathering of workers on or near the premises, or
  - (ix) the frequency of the arrival, departure or parking in the street or on the premises of vehicles attached to the activities on the premises.
- (k) allowing buildings or vacant land to become:
- (i) unsightly, offensive or in a state of disrepair to such an extent that the values of adjacent properties are detrimentally affected;
  - (ii) a home or shelter for squatters or vagrants;
  - (iii) overgrown with neglected lawns, trees, shrubs or other cultivated or uncultivated vegetation
  - (iv) inundated with an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste materials, or
  - (v) a depository for waste materials.
- (l) in relation to business premises, allowing -
- (i) waste materials emanating from the activities on the premises to be deposited in a street refuse bin;
  - (ii) waste materials emanating from the activities on the premises to be deposited on a part of the premises which is accessible from the street or sidewalk, unless it is in a container provided or approved by the municipality;
  - (iii) the display of goods for sale on a part of the premises outside of a building, which is accessible from the street or sidewalk, but does not form part of the street or the sidewalk;
  - (iv) a vehicle to be parked on the premises in such a manner that part of the vehicle extends over a boundary of the premises;
  - (v) a means of advertising or promotion to have the effect that a distraction or danger is caused for passing vehicular or pedestrian traffic, a gathering of persons is allowed to form in the vicinity of the premises, or that pedestrians are prevented from using the sidewalk in front of the premises;
  - (vi) shop trolleys attached to the business to accumulate in a street or parking area to the extent that vehicular or pedestrian traffic is impeded or endangered;
  - (vii) a refrigerator, compressor, fan or other machinery, to operate in such a manner that a vibration or noise is caused on adjacent premises;
  - (viii) an increase in the frequency of deliveries or callers at the premises to such an extent that occupiers of adjacent premises are prevented from gaining normal access to their premises;
  - (ix) vehicles attached to the business to be parked in front of adjacent premises in such a manner that the occupiers are prevented to proceed with the normal operation of their activities; and
    - (x) the use of any stoep, veranda or alley or adjoining vacant land for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
- (m) In relation to general behaviour on streets, parking bays, parking areas and in public places by
- (i) shouting, screaming, whistling or making any other noise to attract attention to such an extent that a nuisance is created;
  - (ii) bringing a vehicle to a stop or driving a vehicle in such a manner that pedestrian or vehicular traffic is impeded;
  - (iii) riding bicycles or similar devices in groups in such a manner that pedestrian or vehicular traffic is impeded;

- (iv) pushing or parking trolleys or similar devices in such a manner that pedestrian and vehicular traffic is impeded;
  - (v) walking or standing in groups in such a manner that other pedestrian traffic is impeded;
  - (vi) offering services or goods and articles for sale in intersections in such a manner that the attention of drivers of vehicles is distracted;
  - (vii) offering services or goods or articles for sale from the side of the road in such a manner that vehicular or pedestrian traffic is impeded or the attention of drivers of vehicles is distracted;
  - (viii) operating a vehicle drawn by animals at such times when, and on such streets where, a heavy traffic flow is experienced;
  - (ix) being in an inebriated or drug-induced condition in such a manner that a nuisance is created, and
  - (x) acting in a disorderly manner.
  - (n) the display of anything which is visually offensive;
  - (o) operating any device which interferes with radio and television reception;
  - (p) loitering in any street or public place;
  - (q) being drunk or under the influence of drugs;
  - (r) soliciting or importuning any person for the purposes of prostitution or any other immoral act;
  - (s) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
  - (t) playing loud music or the use of music instruments on any premises in a manner that causes a nuisance;
  - (u) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
- (3) (a) In the event of a contravention of any of the provisions of this section, the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.
- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (2) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (4) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (5) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder is guilty of an offence.

**CHAPTER 2: GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS****4. Permission to keep animals**

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism and no wild animal may be kept on a premises zoned for residential purposes.
- (3) Bees may only be kept on premises zoned for agricultural purposes and the municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

**5. Plans for structures and management**

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

**6. Consideration of application and imposition of conditions**

- (1) The municipality may, after consideration of –
  - (a) the input or comments obtained in terms of section 4(4);
  - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
  - (c) the documents and site plans submitted in terms of section 5; or
  - (d) any other information relating to the application including, but not limited to, grazing, fencing and availability of water, refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.
- (3) Where consent is granted, the municipality may impose conditions and any person who fails to comply with such conditions commits an offence.

**7. Visibility of structures on premises**

- (1) All structures in which animals are kept must be suitably screened from any street.
- (2) A person who fails to comply with subsection (1) commits an offence.

**8. Wavering of requirements and withdrawal of authorisations**

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions

and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

## **9. Validity of authorisations**

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

## **10. Duties of owner or keeper of animal**

- (1) The owner or keeper of an animal –
  - (a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;
  - (b) must provide such animal with shelter, water and proper food ;
  - (c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and
  - (d) must exercise control over his or her animals in order to prevent damage to property or gardens;
  - (e) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.
- (2) In the event of a contravention of any of the provisions of subsection (1), the municipality may remove any animal and serve a notice on the owner, occupier or alleged offender to comply with the provisions of subsection (1) within the time stipulated in the notice.
- (3) In the event of a contravention of any of the provisions of this by-law or any legislation applicable to the protection of animals, the municipality may notify any officer of any society for the prevention of cruelty to animals who may act in terms of the Animals Protection Act, 71 of 1962.
- (4) If the owner, occupier or alleged offender notifies the municipality within the time stipulated in the notice that compliance with the notice served in terms of subsection (2) has been effected, the municipality may return such animal and the owner will be liable for the costs incurred by the municipality.
- (5) In the event of non-compliance with a notice served in terms of subsection (2) and without prejudice to the municipality's right to prosecute, any animal removed in terms of subsection (2) will be regarded as having been impounded and the provisions of the municipality's Impoundment of Animals by-law will apply.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

## **11. Animals kept in unsatisfactory manner**

- (1) Whenever animals kept on any premises are a public nuisance, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance.
- (2) The municipality may prescribe the steps that need to be taken or the work that must be done to remove the cause of and to abate any nuisance.
- (3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.
- (4) If an owner fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required and recover the cost thereof from such owner.
- (5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

**12. Destruction and sterilisation of animals**

- (1) The municipality may order the euthanization or destruction of an animal which is –
  - (a) dangerous or ferocious; or
  - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or where such veterinary surgeon is not available, by an authorised official with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) An authorised official may cause a dog or cat to be sterilised if he deems it necessary:
  - (a) for the welfare of the dog or cat;
  - (b) to prevent nuisance;
  - (c) where the dog or cat is a stray animal; or
  - (d) on the request of the owner,and the cost of such sterilisation may be recovered from the owner.
- (4) The owner of a sterilised dog or cat must obtain from a registered veterinarian proof that such dog or cat has been sterilised and must produce such document for inspection on demand of any authorised official.
- (5) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsections (2), (3) or (4) commits an offence.

**13. Hawking of animals**

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER 3: PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS*****Part 1 – General Provisions relating to dogs, cats and pets*****14. Number of dogs and cats**

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
  - (a) more than two dogs; and
  - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

**15. Breeders of dogs and cats**

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats must obtain permission from the municipality.
- (2) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

**16. Breeders of pets**

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 5 are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

**17. Conditions and restrictions**

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

**18. Withdrawal of permission**

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

**19. Dogs, cats and horses in streets or public places**

- (1) Subject to the provisions of the Public Amenities By-law, the owner or keeper of a dog, cat or horse may not bring or allow it in a street or public place unless the dog is on a leash or the cat or horse is under physical control of the owner or care taker thereof.
- (2) No person may bring a dog or horse or allow a dog or horse to be brought within 50 metres of any sign prohibiting the presence of any dog or horse.
- (3) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (4) A person who contravenes any of the provisions of subsection (1), (2) or (3) commits an offence.

***Part 2 – Specific provisions relating to dogs*****20. Control and licensing of dogs**

- (1) No person who owns or keeps a dog may –
  - (a) keep such dog unless a license fee determined by the municipality has been paid and such person must, on demand by an authorised official, produce the receipt issued by the municipality for the payment of the license fee;
  - (b) permit a bitch on heat to be in a street or public place without supervision;
  - (c) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
  - (d) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
  - (e) permit a dog –

- (i) to trespass on private property;
  - (ii) to constitute a hazard to traffic using any public road;
  - (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
  - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
- (f) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by–
- (i) barking, yelping, howling or whining;
  - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
  - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection (2) may be released to the owner or keeper of such dog upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

#### **CHAPTER 4: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS**

##### **21. Permission to operate**

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes subsection (1) or (2) commits an offence.

#### **CHAPTER 5: CO-OPERATION BETWEEN MUNICIPALITIES**

##### **22. Service delivery agreements**

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

##### **23. Powers of municipality in case of omission by District Municipality**

If the service delivery referred to in section 22 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

**CHAPTER 6: GENERAL PROVISIONS****24. Right of entry and inspection**

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law; provided that a private dwelling may not be entered for routine inspection purposes without the permission of the owner or occupier;
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

**25. Service of documents and process**

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
  - (a) when it has been delivered to him personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

**26. Transitional provisions**

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2) may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

**27. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

## 28. Penalties

A person who contravenes the provisions of section 3(1) read with 3(2), 3(3)(a) and (b), 3(4), 4(1), (2) and (3), 6(3), 7(1), 10(1), 11(1) and (3), 12(1) and (4), 13(1), 14(1), 15(1), 16(1), 17, 19(1) to (3), 20(1), 21(1) and (2), 21(1) and (2) and 24(4) is guilty of an offence and is, on conviction, and subject to penalties prescribed in any other law, liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

## 29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

## 30. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of –
  - (a) a member of members of an interest group, or an affected person;
  - (b) a member or members of the community; and
  - (c) a designated official or officials of the municipality;
- (3) (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

## 31. Repeal of by-laws

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 20/02/2006	Nxuba Local Municipality: By-law Relating to the Keeping of Dogs and other Animals	The whole
P.G. 1476 dated 20/02/2006	Nxuba Local Municipality: By-law Relating to the Prevention of Nuisances	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to the Keeping of Dogs and other Animals	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to the Prevention of Nuisances	The whole

**32. Short title and commencement**

This by-law is called the By-law Relating to the Prevention of Public Nuisances and Nuisances Arising from the Keeping of Animals and will come into operation on the date of publication thereof in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

**RAYMOND MHLABA MUNICIPALITY: PREVENTION OF PUBLIC  
NUISANCES AND KEEPING OF ANIMALS BY-LAW:  
OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

<b>Section Contravened</b>	<b>Description of Offence</b>	<b>Proposed Fine (1)</b>	<b>Approved Fine (2)</b>
3(1) r/w 3(2), 3(4) and 3(5)r/w 28	Causing a public nuisances by performing any of the conduct set out in subsection (2) or (4)	500	500
4(1) r/w 28	Keeping animals without written permission from the municipality.	500	500
4(3) r/w 28	Keeping bees on premises not zoned for agricultural purposes.	500	500
7(1) r/w 28	Keeping animals in structures which are not suitably screened from any street.	500	500
10(1)(a) r/w 28	Allowing animals to interfere with the comfort, convenience and peace of other people.	500	500
10(1)(b) r/w 28	Failing to provide animals with shelter, water and proper food.	500	500
10(1)(c) r/w 28	Failing to maintain premises in a neat condition in order to prevent a public nuisance.	500	500
10(1)(d) r/w 28	Failing to exercise control over animals in order to prevent damage to property or gardens.	500	500
10(1)(e) r/w 28	Permitting any animal in any public road or place from where it may stray onto such section of a public road.	500	500
11(1) r/w 28	Failing to remove animals, which are public nuisances, from any premises, on receipt of written notice from the municipality.	500	500
12(1)(a) r/w 28	Failing to euthanize or destruct an animal which is dangerous or ferocious.	500	500
12(1)(b) r/w 28	Failing to euthanize or destruct an animal which is injured or diseased to such an extent that it would be humane to do so.	500	500
12(2) r/w 28	Failing to have animals euthanized by a registered veterinary surgeon or an authorised official.	500	500
12(4) r/w 28	Failure to produce a certificate of sterilization when requested by an official.	500	500
13(1) r/w 28	Hawking an animal in a street, public place or from a movable vehicle.	500	500

14(1)(a) r/w 28	Keeping more than two dogs without municipal approval	500	500
14(1)(b) r/w 28	Keeping more than two cats without municipal approval.	500	500
15(1) r/w 28) r/w 28	Failure by a breeder to obtain permission from the municipality to keep more than two dogs or cats.	500	500
16(1) r/w 28	Breeding pets without the approval of the Municipality.	500	500
19(1) r/w 28	Permitting any dog in any public road or public place without a leash or failure to keep a cat or horse under control.	500	500
19(2) r/w 28	Bringing a dog, cat or horse within 50 meters of a sign prohibiting their presence	500	500
19(3) r/w 28	Failing to remove any faeces left by a dog in a public street or public place.	500	500
20(1)(a) r/w 28	Keeping a dog without a license fee having been paid to the municipality or failing to produce such license on demand	500	500
20(1)(b) r/w 28	Permitting a bitch on heat to be in a street or public place without supervision.	500	500
20(1)(c) r/w 28	Urging any dog to attack, worry or frighten any person or animal.	500	500
20(1)(d) r/w 28	Keeping any dog if the premises are not properly and adequately fenced.	500	500
20(1)(e)(i)	Permitting any dog to trespass on private property.	500	500
20(1)(e)(ii) r/w 28	Permitting any dog to constitute a hazard to traffic using any public road.	500	500
20(1)(e)(iii) r/w 28	Permitting a dog to constitute a source of danger or injury to a person outside the premises.	500	500
20(1)(e)(iv) r/w 28	Permitting a dog to be a source of danger to municipal workers entering the premises to carry out their duties and failing to have a notice displayed in a conspicuous place.	500	500
20(1)(f)(i) r/w 28	Keeping any dog which by barking, yelping, howling or whining is interfering with the comfort, convenience, etc., of neighbors.	500	500
20(1)(f)(ii) r/w 28	Charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept.	500	500
20(1)(f)(iii) r/w 28	Behaving in any other manner – interfering with the comfort, convenience, peace and quiet of neighbors.	500	500
21(1) r/w 28	Operating a kennel, cattery, pet shop or pet parlor without the permission of the municipality.	500	500
21(2) r/w 28	Operating a kennel, cattery, pet shop or pet parlour in such a manner so as to cause a nuisance to other people.	500	500
24(4) r/w 28	Failing to give or refuse access to any authorised official or obstructing or hindering him/her in the execution of his/her duties.	500	500

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed	04/2019
.....	.....
Magistrate: Middledrift	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Fort Beaufort	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Adelaide	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Bedford	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Cathcart	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Alice	Date Stamp
Signed	04/2019
.....	.....
Magistrate: Seymour	Date Stamp



**RAYMOND MHLABA LOCAL MUNICIPALITY**  
**SOLID WASTE DISPOSAL BY-LAW**

**By-law published in Provincial Gazette number 4184 dated 11 February 2019**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality, enacts as follows:-

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**1. Definitions**

In this By-law, unless the context otherwise indicates –

“**attendant**” means an employee of the municipality or agent of the municipality duly authorised to be in charge of the disposal site;

“**health care waste**” means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, traditional surgeon and veterinarian or any other place

where health care waste are generated and which are infectious or potentially infectious, and includes –

- (a) microbial wastes including wastes including cultures and stocks of infectious wastes and associated biological 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 biological;
- (e) isolation wastes associated with animals or human beings known to be infected with highly communicable diseases; and
- (f) contaminated and uncontaminated sharps, including clinical items which can cause a cut or puncture or injection, such as needles, syringes, blades and microscope slides;
- (g) used medical equipment and other medical material which is capable or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, such as used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy- and other catheter-bags, gloves, drip bags, administration dines and tongue depressors.
- (h) pharmaceutical products which has become out dated or contaminated or have been stored improperly or are no longer required such as human and animal vaccines, medicine and drugs;
- (i) Genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source.

**"municipality"** means the Raymond Mhlaba Local 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 or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"owner"** also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

**"premises"** means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

**"removal "day"** means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

**"waste"** includes -

- (a) "business waste" which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;
- (b) "domestic waste" which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste which is of such size that it may be deposited in a refuse bin but does not include garden waste;
- (c) "garden waste" which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;
- (d) "hazardous waste" which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste as envisaged in the Hazardous Substances Act, 1973, Act 15 of 1973;

- (e) "offensive waste" means any waste, matter or substance which may be harmful to the environment and residents and includes, but is not limited to-
- (i) animal products, animal carcasses and meat as defined in the Meat Safety Act, (Act 40 of 2000) and in the Red Meat Regulations promulgated under GN 1072 of 17 September 2004;
  - (ii) fruit or vegetables or any by-product obtained from such fruit or vegetables;
  - (iii) perishable foodstuffs; and
  - (iv) health care waste.
- (f) "materials" which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

"**waste bin**" means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

"**waste management activities**" means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the National Environmental Management: Waste Act 59 of 2008 and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1<sup>st</sup> February 2002, bears that meaning.

## 2. Purpose of by-laws

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

## 3. Applicable legislation

The Environment Conservation Act, 1989 (Act 73 of 1989) and the Regulations promulgated in terms thereof apply.

#### **4. Duties and powers of municipality**

- (1) The municipality as the primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- (2) This duty is subject to -
  - (a) the duty of members of the local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution.
- (3) The municipality must as far as is reasonably possible and subject to the provisions of this by-law provide, at a cost to users of the services prescribed by the municipality –
  - (a) for the collection of waste on a regular basis, except waste in its area, which is so situated that the cost of collecting it would be unreasonably high; and
  - (b) access to facilities for the recovery and disposal of waste.
- (4) The municipality must notify all users of its waste management services of any decisions taken in terms of this By-law.

#### **5. Compulsory use of service**

- (1) No one except the municipality or a person authorised by the municipality may remove any refuse from any premises or dispose thereof.
- (2) Each owner of premises must, where a service is rendered, make use of the service provided by the municipality for the removal or disposal of refuse, in respect of refuse originating from such premises.
- (3) The tariff as fixed by the municipality is payable to the municipality by the owner, irrespective whether the service is being used, or not.
- (4) The provisions of this section do not apply to an owner of residential premises who occasionally wishes to dispose of garden refuse generated on such premises.
- (5) A person who contravenes the provisions of subsections (1) and (2) commits an offence.

#### **6. Establishment and control of disposal site**

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

#### **7. Access to disposal site**

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.

- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- (4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

#### **8. Off-loading of waste**

- (1) A person who wishes to dump waste at a disposal site must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.

The municipality may-

- (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited;
  - (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site;
  - (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site; and
  - (d) determine the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned, and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
  - (4) Notwithstanding the provisions of subsection (2), the municipality reserves the right not to permit the dumping of hazardous or offensive waste at a disposal site.
  - (5) A person who fails to comply with the provisions of sub-sections (1), (2) or (3) commits an offence.

#### **9. Ownership of waste**

- (1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.
- (2) A person who contravenes subsection (1) commits an offence.

#### **10. Categories of waste**

The municipality may for the purposes of this by-law, categorise waste into different categories.

#### **11. Separation of waste**

- (1) For the purposes of this by-law, the municipality may require that waste be separated into different kinds of waste.

- (2) A person who fails to separate waste when required to do so in terms of subsection (1) commits an offence.

## 12. Provision of waste bins

- (1) The municipality may –
- (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
  - (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.
- (2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.
- (3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.
- (4) Where any waste bin provided on premises is –
- (a) of a size likely to hinder the efficient removal of waste there from by the servants of the municipality;
  - (b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
  - (c) dilapidated; or
  - (d) likely to cause a nuisance,
- the municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.
- (5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.
- (6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.
- (7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions –
- (a) a central refuse collection point must be provided by the managing body;
  - (b) the managing body must apply in writing for the reduction of waste bins issued to the development;
  - (c) the reduced number of bins must be approved by the municipality; and
  - (d) the managing body shall be held liable for payment of the account for waste removal.
- (8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

## 13. Location of waste bins

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must –
- (a) comply with requirements imposed by the municipality by notice to the owner;

- (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
  - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
  - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
  - (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
  - (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

#### **14. Maintenance of waste bins**

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is –
  - (a) at all times maintained in good order and repair;
  - (b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
  - (c) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

#### **15. Collection of waste**

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality will on removal days collect only waste placed in waste bins or other containers approved by it or which is bundled or packaged in a manner approved by the municipality.
- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may –
  - (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
  - (b) increase the number of collections as it may deem necessary or desirable; or
  - (c) make additional collections should it be desirable.

- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

## **16. Access to premises**

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

## **17. Right of entry**

- (1) Any duly authorised employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:
  - (a) for collecting and supervising the collection of waste;
  - (b) for replacing waste bins; or
  - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.

The owner of the premises may not refuse access to the premises by an employee of the municipality, provided that such employee carries an identification card issued by the municipality and produces it upon request of an owner.
- (2) An owner of premises commits an offence if he or she –
  - (a) denies access to the premises to an authorised employee of the municipality in the performance of his or her duties; or
  - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

## **18. Dumping and littering**

- (1) No person may –
  - (a) except by permission of the owner or of the person or authority having control thereof; or
  - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –
    - (i) any road, highway, street, lane, public footway or pavement or any road verge;
    - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or

- (iv) private or municipal land.
- (2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
  - (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
  - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
  - (c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore.
- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and –
  - (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
  - (b) there is no occupier of the land; or
  - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it–
    - (i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
    - (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

## **19. Burning of waste**

- 5. No person may burn waste without the written approval of the municipality.

## **20. Charges**

- (1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.
- (2) A person who fails or refuses to pay the charges contemplated in subsection (a) commits an offence.

## **21. Exemptions**

- (1) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.

- (2) The municipality may –
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

## **22. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting the waste management activities of the municipality.
- (2) A liaison forum may consist of –
  - (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f) – (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
  - (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
  - (c) a designated official or officials of the municipality;
  - (d) a councillor; and
  - (e) such other person or persons the municipality may decide on.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.
  - (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

## **23. Authentication and service of order, notice or other document**

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been 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 sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last know 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 property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

#### 24. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### 25. Penalties

A person who contravenes the provisions of section 5(1) and (2), 7(1), 8(1), (2) and (3), 9(1), 11(1), 12(3), (4) and (6), 13(1) and (3), 14(1) and (2), 15(1) and (3), 16, 17(3), 18(1), 19 and 20(1) is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

#### 26. Revocation of by-laws

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 2/2/2006	Nxuba Local Municipality: By-law relating to solid waste disposal	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law relating to solid waste disposal	The whole

#### 27. Short title and commencement

This by-law may be cited as the Raymond Mhlaba Local Municipality: Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

**RAYMOND MHLABA MUNICIPALITY: SOLID WASTE DISPOSAL BY-LAW:  
OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

<b>Section Contravened</b>	<b>Description of Offence</b>	<b>Proposed Fine (1)</b>	<b>Approved Fine (2)</b>
5(1) r/w 25	Unauthorised removal of refuse from any premises.	500	500
5(2) r/w 25	Failing to make use of service provided by the Municipality.	500	500
5(3) r/w 25	Failing to pay fixed tariff to Municipality.	500	500
7(1) r/w 25	Entering a disposal site without permission.	500	500
8(1) r/w 25	Dumping waste in disregard of attendant's directions.	500	500
8(2)(a) r/w 25	Failing to dump waste of a particular kind in an area set aside for that particular kind of waste.	500	500
8(2)(b) r/w 25	Failing to comply with the type or size of vehicle from which waste may be dumped.	500	500
8(2)(c) r/w 25	Failing to comply with the quantity of waste.	500	500
8(2)(d) r/w 25	Failing to adhere to the days and times when dumping may take place.	500	500
9(1) r/w 25	Removing waste from a disposal site without permission.	500	500
12(3) r/w 25	Failing to provide special waste bins as specified by notice.	500	500
12(4)(a) r/w 25	Using a waste bind of a size likely to hinder the efficient removal of waste.	500	500
12(4)(b) r/w 25	Using a waste bin which is insufficient for the reception of all waste which is to be removed.	500	500
12(4)(c) r/w 25	Using a waste bin which is dilapidated.	500	500
12(4)(d) r/w 25	Using a waste bins which is likely to cause a nuisance.	500	500
12(6) r/w 25	Failing to place waste in a bin provided for the purpose.	500	500
12(8) r/w 25	Failing to comply with notice.	500	500
13(1) r/w 25	Failing to provide adequate space for waste bins.	500	500
13(3) r/w 25	Failing to place waste bins in space provided.	500	500
14(1)(a) r/w 25	Failing to maintain waste bins.	500	500

14(1)(b) r/w 25	Failing to keep waste bins in a clean condition.	500	500
14(1)(c) r/w 25	Failing to protect waste bins against unauthorised disturbance or interference.	500	500
14(2) r/w 25	Removing or destroying a waste bin.	500	500
15(1) r/w 25	Failing to place bins where indicated.	500	500
15(3) r/w 25	Failing to arrange for collection of waste.	500	500
16 r/w 25	Failing to provide access for waste removal.	500	500
17(3)(a) r/w 25	Denying an official access to premises.	500	500
17(3)(b) r/w 25	Obstructing an official in execution of his duties.	500	500
18(1)(b)(i) r/w 25	Dumping or placing waste on a road, pavement, etc.	500	500
18(1)(b)(ii) r/w 25	Dumping or placing waste in a park, public place, etc.	500	500
18(1)(b)(iii) r/w 25	Dumping or placing waste in a drain, water course, etc.	500	500
18(1)(b)(iv) r/w 25	Dumping or placing waste on private property or municipal land without permission.	500	500
19 r/w 25	Burning waste without permission.	500	500
20(1) r/w 25	Failing to pay charges for removal of waste from disposal site.	500	500

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

**Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour**

This determination replaces any previous determination for the said Magisterial District.

Signed

04/2019

.....  
Magistrate: Middledrift

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Date Stamp

Signed

04/2019

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Magistrate: Fort Beaufort

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Date Stamp

Signed

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Magistrate: Adelaide

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Date Stamp

Signed ..... Magistrate: Bedford	04/2019 ..... Date Stamp
Signed ..... Magistrate: Cathcart	04/2019 ..... Date Stamp
Signed ..... Magistrate: Alice	04/2019 ..... Date Stamp
Signed ..... Magistrate: Seymour	04/2019 ..... Date Stamp



## RAYMOND MHLABA LOCAL MUNICIPALITY: CEMETERIES BY-LAW

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the provisions of section 156(2) of the Constitution of the Republic of South Africa, 1996, the Raymond Mhlaba Local Municipality, enacts as follows:-

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- SCHEDULE

### 1. Definitions

In this by-law, unless inconsistent with the context:-

“**authorised official**” means a person appointed by the Council to be in control of a cemetery;

“**category of persons**” means families, specific religious denominations, or groups of persons with special requirements for interment of human remains;

“**cemetery**” means any place, whether public or private, wherein human remains have been or are intended to be interred and includes a crematorium;

“**certificate of reservation**” means a certificate of proof that a site for a grave, or sites for graves, had been reserved in respect of a person or category of persons;

“**council**” means the council of the Raymond Mhlaba Local Municipality;

“**fees**” means the fees determined by the Council in terms of its Tariff By-law, promulgated by the Council in terms of section 75 of the Local Government: Municipal Systems Act, No 32 of 2000, or pending such promulgation, a decision by the Council in terms of section 75A of that Act to levy and recover fees, charges or tariffs;

“**funeral**” has the same meaning as interment and includes a cremation;

“**municipal manager**” means the official appointed by the Council in the capacity of municipal manager in terms of section 82 of the Structures Act, Act 117 of 1998, and “**interment**” means the burial under the ground or any other means of interment, and includes any other manner of disposal of human remains.

## **2. Purpose**

To regulate the establishment of and control over cemeteries and matters relating to the interment of human remains

## **3. Establishment of cemeteries**

- (1) The Council may establish cemeteries within its municipal area.
- (2) No person may—
  - (a) establish a cemetery within the municipal area without the prior approval of the Council, or
  - (b) knowingly inter or cause to be interred any human remains in a cemetery which has been opened or established without such approval.
- (3) The Council may reserve any area as a cemetery for the interment of the deceased of any person or category of persons; provided that such reservation does not grant the right to any person to be interred in a specific place in a cemetery.
- (4) In the case of a reservation in terms of subsection (4), the authorised official will issue a certificate of reservation in respect of such person or category of persons.

## **4. Taking over of cemeteries by the Council**

- (1) The Council may take over any cemetery within its municipal area.
- (2) In cases where cemeteries that are privately owned are taken over, the taking over of the cemetery concerned is by agreement with the owner of the cemetery.
- (3) Upon the taking over of a cemetery in terms of this section—
  - (a) the ownership of all movable and immovable property and other assets connected with such cemetery will, subject to any trusts or conditions, vest in the municipality;
  - (b) all revenue and other moneys payable to and recoverable in respect of such cemetery will be payable to and recoverable by the Council; and
  - (c) all other privileges and rights and all liabilities and obligations in respect of such cemetery will devolve upon the municipality which may continue to prosecute and defend all legal proceedings instituted in respect of such cemetery and may do all things necessary or expedient in connection with such proceedings.
- (4) The municipality will apply to the Registrar of Deeds for the transfer to and registration in the name of the municipality such property or right.

## **5. Use of disused cemeteries owned by the Council**

- (1) The Council may, notwithstanding any condition of title, use any cemetery or portion thereof which has been closed or disused for for a period of not less than twenty years for such purpose as will not desecrate the ground, any

human remains or any gravestones or similar structures in such cemetery or portion.

- (2) The Council may, notwithstanding any condition of title, reverently remove to another cemetery the human remains, gravestones and other similar structures in any cemetery or portion thereof which has been closed or disused for a period of not less than twenty years and all rights, powers and privileges had, possessed or enjoyed by any person in respect of such cemetery shall thereupon cease.
- (3) When the Council desires to act in terms of subsection (1) or (2), the municipal manager must -
  - (a) publish the Council's intention to do so for public comment in a manner that allows the public an opportunity to make representations in regard to the matter, and
  - (b) if any objections are lodged in accordance with the publication contemplated by paragraph (a)—
    - (i) transmit all such objections to the Council together with any apposite comments thereon and a copy of such advertisement, and
    - (ii) obtain the Council's authority to so use or remove, as the case may be.

#### **6. Use of disused cemeteries not owned by the Council**

Closed or disused cemeteries not owned by the Council, will not be dealt with in any manner unless the Council has acted in accordance with the provisions of section 4(3).

#### **7. Authority for interment**

- (1) No person may inter or cremate any human remains without the consent of the authorised official.
- (2) Consent in terms of subsection (1) will not be granted, unless—
  - (a) proof that the interment or cremation is lawful has been submitted to the authorised official;
  - (b) the fees determined by the Council has been paid, and
  - (c) if applicable, a reservation certificate has been submitted to the authorised official.
- (3) The authorised official may, in terms of the provisions of the Council's Tariff By-law, allow the interment or cremation of human remains free of charge.

#### **8. Hours of interment**

Except with the written permission of the authorised official, no person may inter human remains in a cemetery between the hours of sundown and sunup.

#### **9. Register of funerals**

The authorised official will keep a register of funerals and graves in which each interment must be entered immediately after interment.

**10. Demarcation of grave sites**

The authorised official will demarcate grave sites according to a plan approved by the municipal manager.

**11. General provisions regarding cemeteries**

No person may—

- (a) enter or exit a cemetery except through the gates provided for the purpose;
- (b) without the written permission of the authorised official, carry out any business, display any advertisement or distribute leaflets in a cemetery;
- (c) sit, stand or climb over any grave, gravestone or similar structure, gate, wall, fence or building in a cemetery;
- (d) without the written permission of the authorised official, bring in any animal or animal-drawn vehicle into a cemetery;
- (e) damage, mar, remove or deface, any grave, gravestone, wall, building, plant, fence or other infrastructure in a cemetery; or
- (f) remain in a cemetery after the cemetery has closed for the day in terms of a notice at the entrance or entrances to the cemetery,

**12. Removal of gravestones or other structures**

If a gravestone or other structure must be removed for the purposes of a funeral, the holder of the reservation certificate or a duly authorised representative in respect of such site, must remove the necessary items at least eight working hours before the interment must take place.

**13. Graves to be identified**

In each case where an interment has been authorised by the authorised official, the authorised official must place an identification marker on the gravesite, and no person may inter human remains in any other grave than a grave so indicated by the authorised official.

**14. Provisions relating to graves**

- (1) The measurements to which graves must comply, will be determined by the authorised official in terms of specifications approved by the municipal manager.
- (2) In cases where deeper, longer or wider graves are required, application for permission must be made to the authorised official, and an additional fee may be payable.
- (3) The authorised official may, on application, at the payment of a fee, and at the discretion of the authorised official, allow the remains of more than one person to be interred in one grave.
- (4) No person may –
  - (a) inter human remains in a grave that does not comply with the measurements specified in terms of sub-section (1);
  - (b) where deeper, longer or wider graves are required as set out in sub-section (2), without the written permission of the authorised official;
  - (c) without the written permission of the authorised official allow the remains of more than one person to be interred in one grave.

**15. Provisions relating to burials**

- (1) No one may, without the prior written approval of the authorised official, conduct any religious service according to the customs of any denomination in any area of the cemetery that has been reserved for the use of another denomination.
- (2) No one may allow a hearse, while it is in the cemetery, to deviate from the roads, and a hearse must vacate the cemetery as soon as possible after the funeral for which it was used.
- (3) Anyone attending a funeral, must comply with the directions of the authorised official in regard to the route that must be followed within the cemetery.

**16. Provisions relating to gravestones and similar structures**

- (1) No one may erect, carry out any work on, or remove any gravestone or similar structure without the prior written approval of the authorised official, and then only in accordance with the conditions and requirements determined by the authorised official.
- (2) No one may act in terms of subsection (1) unless the fees have been paid.
- (3) The authorised official may refuse to grant approval in terms of subsection (1) if the erection of, work on or epitaph on the gravestone or similar structure may be offensive to users of the cemetery or visitors to the cemetery.

**17. Offences and penalties**

A person who contravenes the provisions of section 3(2)(a), 3(2)(b), 7(1), 8, 11(a)-(f), 12, 13, 14(4)(a)-(c), 15(1)-(3) and 16(1)-(2) is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

**18. Repeal**

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

<b>Provincial Notice No.</b>	<b>Title</b>	<b>Extent of repeal</b>
P.G. 1476 dated 20/2/2006	Nxuba Local Municipality: By-law relating to cemeteries and crematoria	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law relating to cemeteries and crematoria	The whole

**19. Short title and commencement**

This by-law is called the Raymond Mhlaba Local Municipality: Cemeteries by-law and comes into operation on the date of publication in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019.07.**

**RAYMOND MHLABA LOCAL MUNICIPALITY: CEMETERIES BY-LAW:  
OFFENCES AND FINES**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

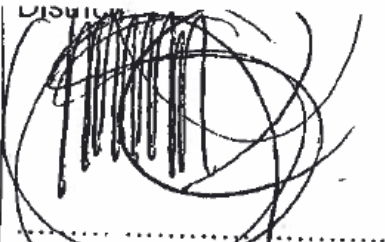
<b>Section Contravened</b>	<b>Description of offence</b>	<b>Proposed Fine Column (1)</b>	<b>Approved Fine Column (2)</b>
3(2)(a)r/w17	Establishing a cemetery within the municipal area without the prior approval of the Council.	No fine. Must appear.	No fine. Must appear.
3(2)(b) r/w17	Knowingly inter or cause to be interred any human remains in a cemetery which has been opened or established without the prior approval of the Council.	2000	2000
7(1) r/w17	Interring or cremating any human remains without the consent of the authorised official.	2000	2000
8 r/w17	Interring human remains in a cemetery between the hours of sundown and sunup without the written permission of the authorised official.	2000	2000
11(a) r/w17	Enter or exit a cemetery except through the gates provided for the purpose	500	500
11(b) r/w17	Carry out any business, display any advertisement or distribute leaflets in a cemetery without the written permission of the authorised official	500	500
11(c) r/w17	Sit, stand or climb over any grave, gravestone or similar structure, gate, wall, fence or building in a cemetery	500	500
11(d) r/w17	Bring in any animal or animal-drawn vehicle into a cemetery without the written permission of the authorised official	500	500
11(e) r/w17	Damage, mar, remove or deface, any grave, gravestone, wall, building, plant, fence or other infrastructure in a cemetery	1000	1000
11(f) r/w17	Remain in a cemetery after the cemetery has closed for the day in terms of a notice at the entrance or entrances to the cemetery	500	500
12 r/w17	Failure to remove a gravestone or other structure for the purposes of a	500	500

	funeral by the holder of the reservation certificate or a duly authorised representative in respect of such site, at least eight working hours before the interment must take place.		
13 r/w17	Interring human remains in any other grave than a grave so indicated by the authorised official by means of an identification marker on the gravesite	2000	2000
14(4)(a) r/w17	Interring human remains in a grave that does not comply with the measurements specified by the authorised officer	2000	2000
14(4)(b) r/w17	Interring human remains in a grave that is deeper, longer or wider than the prescribed measurements without the written permission of the authorised official	2000	2000
14(4)(c) r/w17	Allowing the remains of more than one person to be interred in one grave without the written permission of the authorised official	2000	2000
15(1) r/w17	Conducting any religious service according to the customs of any denomination in any area of the cemetery that has been reserved for the use of another denomination without the prior written approval of the authorised official	2000	2000
15(2) r/w17	Allow a hearse, while it is in the cemetery, to deviate from the roads, and failing to vacate the cemetery as soon as possible after the funeral for which it was used	500	500
15(3) r/w17	Failing to comply with the directions of the authorised official in regard to the route that must be followed within the cemetery	500	500
16(1) r/w17	Erect, carry out any work on, or remove any gravestone or similar structure without the prior written approval of the authorised official, or failure to comply with the conditions and requirements determined by the authorised official	500	500
16(2) r/w17	Erect, carry out any work on, or remove any gravestone or similar	500	500

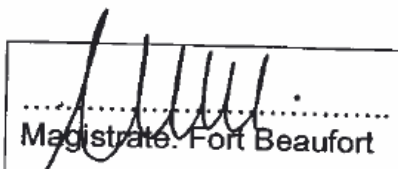
	structure without paying the prescribed fees		
<p>Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:</p>			
<p><b>Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour</b></p>			
<p>This determination replaces any previous determination for the said Magisterial District.</p>			
Signed	.....	04/2019	.....
Magistrate: Middledrift		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Fort Beaufort		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Adelaide		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Bedford		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Cathcart		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Alice		Date Stamp	
Signed	.....	04/2019	.....
Magistrate: Seymour		Date Stamp	

I hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

.....  
This determination replaces any previous determination for the said Magisterial District.

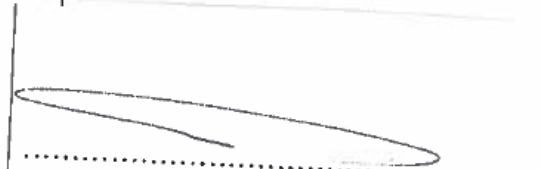
.....  
  
.....  
Magistrate, Middeldrift

Private Bag X09, Middeldrift 5685  
2019 -04- 16  
ONE  
Date Stamp


.....  
  
.....  
Magistrate, Fort Beaufort

MAGISTRATE  
Private Bag X227, Fort Beaufort, 5720  
2019 -04- 08  
ONE  
FORT BEAUFORT  
MAGISTRATE'S COURT

.....  
Date Stamp

.....  
  
.....  
Magistrate: Bedford

MAGISTRATE  
Private Bag X310, Adelaide 4760  
2019 -02- 22  
ONE  
ADELAIDE  
MAGISTRATE'S COURT  
Date Stamp

.....  
  
.....  
Magistrate: Cathcart

2019 -02- 17  
Date Stamp

  
.....  
Magistrate: Cathcart

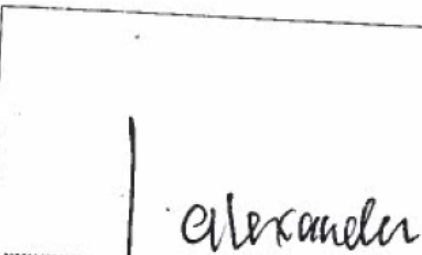
2019-03-12



.....  
Date Stamp

  
.....  
Magistrate: Alice  
**L.K.S. Njokweni**  
MAGISTRATE: ALICE  
Date: 3/4/2019

.....  
Date Stamp

2019-04-03

  
.....  
Magistrate: Seymour

MAGISTRATE  
Private Bag X10, Seymour 5750  
 2019-03-03   
ONE  
.....  
MAGISTRATE COURT  
Date Stamp