

MANGAUNG
LOCAL MUNICIPALITY/PLAASLIKE MUNISIPALITEIT/LEKGOTLA LA MOTSE
BY-LAWS REGARDING URBAN OPEN SPACES

The proposed By-law relating to Urban Open Spaces is hereby published in terms of the provisions of section 12(3) of the Local Government : Municipal Systems Act, 2000 (Act No 32 of 2000) for public comment and representations. A copy thereof may also be scrutinised at the following places:

- a. The notice boards on the ground floor of the Bram Fischer-building in Bloemfontein;
- b. On the Municipality's website at www.mangaung.co.za ;
- c. At Room number 313, 3rd Floor in the Bram Fischer Building , De Villiers Street 5 , Bloemfontein.

Any comments or representations on the proposed by-laws must be submitted to the City Manager in writing at Room 201, Bram Fischer Building, De Villiers Street, Bloemfontein or send by post to PO Box 3704, Bloemfontein 9300 to reach him on or before 5 December 2008. Any person who cannot write, may come during office hours on or before 5 December 2008 to Room 313 or 314, Bram Fischer Building, De Villiers Street, Bloemfontein where assistance with the transcribing of comments or representations will be provided.

Notice No 72 / 2008

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CITY MANAGER

BY-LAWS

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1. Definitions

(1) In these by-laws, unless the context otherwise indicates -

“**agriculture**” means the use of land for afforestation, animal husbandry or for the production of crops for human and animal consumption;

“**construction**” means the building, erection or expansion of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or upgrading of such facility, structure or infrastructure that does not result in a change to the nature of the activity being undertaken or an increase in the production, storage or transportation capacity of that facility, structure or infrastructure;

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

“**Critical Open Space**” means a sensitive area where natural features and habitats occur and which is of significant importance to the surrounding area's ecology, and include, but is not limited to a river, a runoff area, a hill and an outcrop areas with its own defined habitat;

“**cultural use**” means the use of urban opens spaces for any cultural practices which includes, but is not limited to, initiation schools, gathering of plants for medicinal purposes;

“**dam**” means any body of water which is under the control or ownership of the municipality;

“**Density Zone**” means an area where a pocket of higher population density occurs;

“EIA“ means an environmental impact assessment as required in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**Intensive Agriculture District**” means an area adjacent to or within an peri-urban area which is used for intensive and often commercial farming purposes;

“**Functional Open Space**” means an area where a public or a private open space is frequently used by the surrounding community for relaxation, recreation, sport, economic or any other acceptable social function;

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

“**municipality**” means the Mangaung Local Municipality, and when referred to as -

- (a) an entity, means Mangaung Local Municipality as described in section 2 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000);
- (b) a geographic area, means the municipal area of Mangaung Local Municipality as determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998); and
- (c) a person, means 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;

“**Neighbourhood Node**” means an area in which a Functional Open Space is contained and which is accessible to serve a large portion of the surrounding area’s inhabitants and which often includes a private open space and a non-functional open space;

“**open space**” means any open space in ownership of the municipality which is situated outside of normally built-up areas and areas of concentration of residences, businesses, industries, factories or other man-made structures, and includes, but is not limited to nature reserves, game farms, riverine vegetation and private open spaces;

“**peri-urban**” means any area which can be described as surrounding the urban area within city boundaries.

“**Peri-urban Agricultural Area**” means an area adjacent to or in close proximity to an urban area and which is used for communal or subsistence farming activities such as grazing, thatching or small crop production;

“**poultry**” means chickens, fowls, ducks, geese, turkeys, swans, Muscovy ducks and includes all other types of birds typically classified as poultry;

“**prescribed fees**” means the fees determined by the Council from time to time by way of resolution;

“**Primary Visual Corridor**” means an area containing an open space area within the primary road reserves which may include traffic islands, sidewalks and open directly adjacent to the road reserve;

“**private open spaces**” means any land to which the right of entry is proscribed and restricted, including privately owned land, in which instance the municipality has the right to prescribe, in accordance with its policies regarding land use and development, the kind of development that may take place on such privately owned land;

“**public amenity**” means –

- (a) any land, square, camping site, swimming-pool, public resort, sports complex, nature reserve, zoological, botanical or other garden, park or biking trail and any other public open spaces including any portion thereof, and any facility or apparatus therein or thereon, but does not include any public road or street;
- (b) any building, structure, hall, room or office including any part thereof on any facility or apparatus therein, which is the property of, or is possessed by, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission fees or not; and

- (c) also any public amenity contemplated in subsection (a) or (b), if it is lawfully controlled and managed in terms of an agreement by a person other than the Municipality;

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

“**Regional Node**” means an area that serves as a Functional Open Space or which is positioned in such a manner that it would be able to serve as a major Functional Open Space node;

“**Reserve Zone**” means an area adjacent to a Critical Open Space and which is most often an urban developed area;

“**Secondary Visual Corridor**” means an area containing an open space areas within the primary road reserves which might include traffic islands, sidewalks and which open directly adjacent to the road reserve;

“**vehicle**” means any truck, bus, motorcar, motorcycle, quadbike, motor tricycle, bicycle, trailer or any other vehicle, craft or airplane, whether driven by mechanical, animal, natural or human power, except otherwise directed by a notice board erected in terms of section 15;

“**urban open spaces**” means all spaces on a continuum of open space within the city, ranging from the urban and peri-urban structure of the city and integrating with the rural, belonging to , or in control of the Mangaung Local Municipality.

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

- (2) In these by-laws, unless the context otherwise indicates, a word or expression denoting the singular includes the plural and vice versa, a word or expression denoting the male sex includes the female sex and vice versa, and reference to a natural person includes a legal person and vice versa.

2. Purpose of by-laws

These by-laws are aimed at defining the official position of the Mangaung Local Municipality towards, and regulating on –

- (a) the conservation and maintenance of its urban open spaces;
- (b) the utilisation thereof by various users;
- (c) the design and development of current and additional urban open spaces; and
- (d) the alienation of certain areas which are not suited as urban open spaces.

CHAPTER 1

CLASSIFICATION OF DEVELOPMENTAL INTEGRITY, LAND USES, ENVIRONMENTAL REPORTING AND PUBLIC PARTICIPATION PERIODS

3. Classification of developmental integrity of urban open spaces

The following classification of the developmental integrity of urban open spaces in the municipality applies:

- (a) Critical Open Spaces;
- (b) Reserve Zones;
- (c) Density Zones;
- (d) Intensive Agriculture Districts;

- (e) Peri-urban Agricultural Areas;
- (f) Functional Open Spaces;
- (g) Neighbourhood Nodes;
- (h) Regional Nodes;
- (i) Primary Visual Corridors;
- (j) Secondary Visual Corridors; and
- (k) Proclaimed Parks.

4. Land use in Critical Open Space, environmental reporting, and public participation period

(1) The following land uses and developments may be allowed in a Critical Open Space:

- (a) Municipal bulk infrastructure;
- (b) limited telecommunication use; and
- (c) use in direct support of the main function and character of a Critical Open Space, which use may include but is not limited to, an observation point and a natural walkway,

however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.

- (2) A land use which could potentially impede the natural integrity or visibility of a Critical Open Space or which would change the character of an open space is not allowed.
- (3) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
 - (a) All reporting required by legislation; and
 - (b) an extensive EIA for each individual use.
- (4) Subject to the provisions of section 14, the Municipality requires a public participation period of 120 days from interested or affected parties within 1km radius, within which period they may make representations, or comments on or object against a proposed development in a Critical Open Space.
- (5) Written comments from the relevant ward councilor must be obtained.

5. Land use in Reserve Zone, environmental reporting, and public participation period

- (1) Land use and a development that may be allowed in a Reserve Zone is a public infrastructure utility and a use directly supporting the relevant Critical Open Space.
- (2) The following land uses and developments are not allowed in a Reserve Zone:
 - (a) Land use that could potentially impede the natural and visual flow of the open space towards the relevant Critical Open Space; and
 - (b) residential densification or urban use which threatens the natural integrity of the relevant Critical Open Space,

however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.

- (3) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the relevant Critical Open Space, as well as minimization and mitigation measures.
- (4) Subject to the provisions of section 14, the Municipality requires a public participation period of 60 days, within which period a interested party may make a representation, or comment on or object against a proposed development in the Critical Open Spaces, as well as inputs obtained from all households within a 500m radius from the open space.
- (5) Written comments from the relevant ward councilor must be obtained

6. Land use in Density Zone, environmental reporting, and public participation period

- (1) Land use and a development that may be allowed in a Density Zone is a public infrastructure utility and a use which does not contribute to the further densification of the area or which does not incrementally change the character of the area, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential social impacts to the entire zone if the relevant open space is to be redeveloped. In terms of mitigating measures, the developer must provide an alternative public open space to the same standard within a 400 m radius from the existing open space.
- (3) Subject to the provisions of section 14, the Municipality requires a public participation period of 60 days, within which period an interested party may make a representation, or comments on or object against a proposed development in the Critical Open Space, as well as inputs obtained from all households within a density zone.
- (4) Written comments from the relevant ward councilor must be obtained.

7. Land use in Intensive Agriculture District, environmental reporting, and public participation period

- (1) Full urban extension with all urban functions may be allowed in a peri-urban agricultural area, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, is as follows:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts on the agricultural activities on the particular farm as well as the farms directly adjacent to it.
- (3) Subject to the provisions of section 14, the Municipality may require inputs from all the directly adjacent farm owners as well as any relevant agricultural organization and other role-players.

8. Land use in Peri-urban Agricultural Area, environmental reporting, and public participation period

- (1) Full urban extension with all urban functions may be allowed in the peri-urban agricultural areas, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.

- (2) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts on the peri-urban agricultural activities on the particular farm as well as mitigating measure to accommodate the current users.
- (3) Subject to the provisions of section 14, the Municipality may require inputs from all the direct adjacent farm owners as well as any relevant agricultural organization and other role-players.

9. Land use in Functional Open Space, environmental reporting, and public participation period

- (1) A public infrastructure utility and a use in direct support of the relevant Critical Open Space may be allowed in a Functional Open Space, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) Land use which could potentially impede on the current community use of the property is not allowed, unless such use is formally accommodated within the development and in accordance with the requirements of the municipality, which requirements can be established at the municipal offices.
- (3) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the current uses, as well as minimization and mitigation measures to accommodate such activities within the development or within 300m of the development.
- (4) Subject to the provisions of section 14, the municipality may require an extended public participation and comments period of between 60 days and may require inputs from all the households within a radius of 500 m from the open space as well as any additional role-players.
- (5) Written comments from the relevant ward councilor must be obtained

10. Land use in Neighbouring Node, environmental reporting, and public participation period

- (1) A public infrastructure utility and a use in direct support of the relevant master plan for the node may be allowed, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) No land use is allowed which could potentially impede the implementation of the master plan or which would incrementally change the character of the open space.
- (3) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
- (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the current uses, as well as minimization and mitigation measures to accommodate planned activities within the master plan or within 300m of the development.
- (4) Subject to the provisions of section 14, the Municipality requires a public participation period of 90 days and requires inputs from interested or affected parties within a radius of 1km from the open space as well as any additional role-players.
- (5) Written comments from the relevant ward councillor must be obtained.

11. Land use in Regional Node, environmental reporting, and public participation period

- (1) A public infrastructure utility and a use in direct support of the relevant master plan for the node may be allowed, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) No land use is allowed which could potentially impede the implementation of the master plan or which would incrementally change to character of the open space.
- (3) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
 - (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the current uses, as well as satisfactory minimization and mitigation measures to accommodate planned activities within the master plan or within 500m of the development.
- (4) Subject to the provisions of section 14, the Municipality requires a public participation period of 90 days and requires inputs from interested or affected parties within a radius of 1km from the open space as well as any additional role-players.
- (5) Written comments from the relevant ward councillor must be obtained.

12. Land use in Primary Visual Corridor, environmental reporting, and public participation period

- (1) A public infrastructure utility and a use in direct support visual beautification of the corridor and functioning of the corridor may be allowed in a Primary Visual Corridor, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
 - (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the open visibility and beautification of the corridor.
- (3) Subject to the provisions of section 14, the Municipality requires inputs from interested or affected parties within a radius of 500m from the open space as well as any additional role-players.

13. Land use in Secondary Visual Corridor, environmental reporting, and public participation period

- (1) A public infrastructure utility and a use in direct support visual beautification of the corridor and functioning of the corridor may be allowed in a Secondary Visual Corridor, however, a person who wishes to use the land has to ascertain, before he or she uses the land, if the particular use is allowed.
- (2) The environmental reporting that is required when a development stipulated in subsection (1) is contemplated, includes:
 - (a) All reporting required by any relevant legislation; and
 - (b) a Basic Assessment Report or an Environmental Impact Assessment Report of a potential development indicating the potential impacts of the development on the open visibility and beautification of the corridor.
- (3) Subject to the provisions of section 14, the Municipality requires inputs from interested or affected parties within a radius of 500m from the open space as well as any additional role-players.

14. Compliance monitoring for public participation requirements

The following information of the public participation proceedings must be forwarded to the Environmental Management Sub-directorate as proof of compliance with the public participation requirements:

- (a) A copy of advertisement placed in the relevant newspapers;
- (b) a photo of the on-site notice;
- (c) minutes of the public participation meetings;
- (d) comment letters received from the interested and affected parties;
- (e) a locality map indicating the erven to be included in the public participation process;
- (f) written proof of consultation with ward councilors; and
- (g) proof of registration for all letters sent to adjacent landowners.

CHAPTER 2

POWERS OF COUNCIL

15. 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 one or more of the following are displayed:
 - (a) The times, as contemplated in section 18(3), dates and conditions of entry into and activities that may or may not be undertaken upon a public amenity; and
 - (b) the prescribed fees or deposit payable, as contemplated in section 18(1) and (2),

however, where such notice board has not been so erected, no activities may be undertaken upon the public amenity.
- (2) No person other than an official or other person authorised to do so by the municipality may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality in terms of these by-laws.
- (3) A notice posted by municipality in terms of subsection (1) –
 - (a) must be clearly visible and readable;
 - (b) must be written in such language or languages as the municipality may determine;
 - (c) may contain a graphic representation to convey meaning; and
 - (d) must comply with the provisions of the Mangaung Outdoor Advertising By-laws.
- (4) A person who enters a public amenity in contravention of the times, dates and conditions contemplated in subsection (1)(a) as displayed on a notice board, or who undertakes an activity upon a public amenity as contemplated in subsection (1), or who contravenes a provision of subsection (2) commits an offence.

16. General powers of Municipality and exemption

- (1) The Municipality may designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these by-laws may be undertaken for a certain period by displaying the exemption of the specific by-law on a notice board contemplated in section 15.
- (2) The Municipality may erect, construct, establish or demolish municipal property within a public open space without changing the character of the open space; and only if it is meant for the enhancement of public use for that open space.

- (3) The Municipality may exercise any other power reasonably necessary for the discharge of its obligations in terms of these by-laws relating to the management of public open spaces.

17. Alienation of urban open spaces

- (1) The sale or long term lease of any urban open space for any purpose is subject to the stipulations of the Council's policy for the disposal of municipal land or related policies and guidelines which may be formulated by the municipality.
- (2) Where a public open space is alienated or used for urban development, the municipality may require from the developer to provide and develop a proportionate sized public open space elsewhere and as may be needed to develop the urban open space system in consultation with the immediate community, the respective ward councilor and relevant directorates of the municipality.

18. Exclusive use of public amenity

- (1) The Municipality may grant the exclusive use of any public amenity, or any part thereof to a person, organisation or body of persons at any time for the use of some sport, gathering, function or public meeting.
- (2) When the Municipality has granted such exclusive use of a public amenity or a part thereof to an applicant in terms of sub-section (1), no other person may enter into or upon such public amenity without the prior approval of the applicant, however, no person may be unfairly discriminated against by an applicant.
- (3) A person who contravenes a provision of subsection (2) commits an offence.

19. Entrance fees and times

- (1) Any member of the public must pay –
- (a) a prescribed fee to use recreational or other facilities which the Council provides within any public open space, if applicable;
 - (b) a prescribed fee for entrance to any public open space or public amenity, if applicable;
 - (c) a prescribed fee for the right to undertake a special event;
 - (d) a prescribed fee for the right to exclusively use municipal property for a specific period;
 - (e) a deposit prior to undertaking a prohibited activity permitted by the Council; or
 - (f) an annual or monthly fee for the right to use urban open spaces to the exclusion of any other person.
- (2) Different entrance-fees may be so determined in respect of visitors of different ages.
- (3) The times that public amenities are open may vary from amenity to amenity and these times will be determined by the Municipality.

CHAPTER 3

PROHIBITED BEHAVIOUR

20. Disturbance of peace in public amenity or public place

- (1) No person may perform or permit to be performed in or at a public amenity or a public place any of the following acts:
- (a) Using language or performing any other act with the purpose of disturbing the good order;
 - (b) performing any indecent or improper act, or exposing himself indecently, or inciting any other person to perform such an act;
 - (c) drawing, writing, painting or displaying in any matter any indecent figure, drawing, writing or representation;

- (d) causing unpleasant or offensive smells;
- (e) causing of disturbances by fighting, arguing or singing;
- (f) intruding upon or attempting to intrude upon or using any water closet, urinal or toilet provided for the opposite sex;
- (g) gambling;
- (h) subject to section 21(1)(c), playing a musical instrument;
- (i) being intoxicated;
- (j) producing a smoke nuisance; or
- (k) causing any noise nuisance to any visitor, bystander or neighbour.

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

21. Municipality's permission required for certain acts

(1) No person may, without the written permission of the municipality first having been obtained or contrary to any condition which the Municipality may impose when granting such permission in a public amenity, perform or permit to be performed in or at a public amenity or a public place any of the following acts:

- (a) Firing of firearms, airguns, fireworks, crackers or the use of sling-shots or catapults;
- (b) lighting of a fire to burn, or the burning of rubble, refuse, plant material or any other material;
- (c) playing of or making any noise on any music instruments;
- (d) playing of or making preparation to play any game, except on the places indicated and set apart for such games by the municipality;
- (e) using loudspeakers, radio reception devices, television sets or similar equipment;
- (f) erecting or placing, or causing to be erected or placed any post, rail, fence, pole, peg, spike, tent, booth, screen, stand, swing, cart, wagon, car or truck, or building, erection or obstruction of any kind whatsoever, or failing to remove same after due notice from the Municipality;
- (g) using the public amenity or public open space for any cultural use or church activity;
- (h) affixing or distributing any pamphlet, book or other printed or written matter;
- (i) arranging, presenting or attending any kind of entertainment;
- (j) collecting money or any other goods for any purpose;
- (k) arranging, holding or addressing any meeting or gathering of persons;
- (l) conducting any trade, occupation or business, including the selling of any goods or services;
- (m) parking of vehicles on open spaces or displaying of vehicles for sale on open spaces;
- (n) subject to the Mangaung Outdoor Advertising By-laws, erecting advertising signs on open spaces; or
- (o) any other activity that may, in the view of the municipality, affect an open space.

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

22. Prohibited actions

- (1) No person may enter into a public amenity without paying the prescribed fee, where such a fee is applicable to the specific public amenity.
- (2) No person may, in, at or from a public amenity or a public place –
 - (a) remove or damage any fountain, statue, monument, bust, post, chain, railing, fence, seat, barrier, gate, lamp, lamp post, notice board or plate, watch box, house, building, shed, urinal, closet, flag, mark or other article or thing, or deface or disfigure the same, or paste or affix in any way any bills, papers, placards or notices thereon, or by cutting, writing, stamping, printing, drawing or marking thereon or in any other manner whatsoever;
 - (b) cut, gather, remove, dig up, fell, burn, pluck, break, climb up or upon or damage timber, or any tree, brushwood, fencing, post, pole, fern, turf, grass, flowers or plants;
 - (c) take, dig, cut, break, damage or remove any gravel, sand, sod, clay, turf, mould, soil, water or other substance;
 - (d) go into or attempting to go into any enclosed place, plantation or garden or any temporary enclosure, or walk on any flower bed of any grass plot which would be damaged by so doing;
 - (e) deposit, dump, drop or leave any refuse, rubbish, paper, dead animal or any other waste, except in a container provided for that purpose;
 - (f) commit any action or allow any action to take place, over which action the person has the necessary control which may or pollute surface or underground water sources or natural and structured water run off areas;
 - (g) except if such vehicle is designed for the benefit of a disabled person or a minor child, ride, drive, draw or propel any vehicle in the places where such is prohibited by a notice board erected in terms of section 15;
 - (h) draw, drive, drag, propel, stand or place upon or over any part of a flowerbed or lawn, or any machine whatsoever in any park or garden.
 - (i) use any part of any public amenity or water body for shaking, beating, brushing or cleaning any carpet, mat or other thing, or dry or bleach linen, clothing or other articles;
 - (j) catch or snare any bird or fish or place any net, snare, or trap for the taking of birds, birds' eggs or nests, or shoot or chase or attempt to shoot any bird or animal or throw any stone or stick or other missile, with intent to injure, worry or catch any bird, fish or animal, or in any way interfere with any fish, water-fowl or other animal;
 - (k) feed or attempt to feed any animal, bird or reptile in any public amenity;
 - (l) throw any stone stick, or other missile, use any squirt, syringe, switch, or other instrument, or doing anything which may endanger the life or safety of any person, animal or thing, or be deemed a nuisance, obstruction or annoyance to the public;
 - (m) sell or offer for sale or for hire any commodity, article or service, with the exception of an article sold at an event held by a person who applied for the exclusive use of a public amenity in terms of section 18;
 - (n) refuse to leave any public amenity when requested to do so by any authorized employee of the Municipality or a member of the South-African Police Services, or any person authorized thereto by the Council, or unlawfully remain therein after the gates are closed, or climb on or over the gates, fences or railings, or enter or leave otherwise than through the existing entrances or exits;
 - (o) refuse to give his proper name and address when requested to do so by any employee of the Municipality, member of the South African Police Services or person duly authorized thereto by the Council; or
 - (p) undertake any type of construction that is not formally approved by the municipality.

- (3) A person who contravenes a provision of subsection (1), (2) or (3) commits an offence.

23. Liquor and Foods

- (1) No person may, bring into a public amenity any alcoholic beverage whatever nature, except if this is allowed in the normal celebrations of a cultural or other festival.
- (2) Subject to the provisions of sub-section (1), no person may in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by a notice board erected in terms of section 14.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

24. Animals

- (1) No person may bring into or upon a public amenity any animal, bird, fish or poultry, except in accordance with the directions on a notice board erected in terms of section 15, and the municipality may determine different directions in respect of different amenities and different type of animals.
- (2) No livestock or poultry may be kept on any open spaces without the written permission of the Municipality first having been obtained.
- (3) No person may allow any animal out to graze, or allow any animal to run at large or feed or tether or fasten any animal on the area of a public amenity or any public place, or suffering any animal to stray in the public streets, thoroughfares, and other public places.,
- (4) No person may kill or intentionally harm naturally occurring animals or destroy their habitats.
- (5) A person who contravenes a provision of subsection (1), (2) or (3) commits an offence.

25. Use of water body

- (1) No person may, contrary to any provision of a notice board erected in terms of section 15, at any water body, commit any action which is expressly prohibited by the notice.
- (2) No person may fish, swim, draw or enter the water of any water body on any private open space, or bath or wash any animal, or allow any animal to be washed in water body, or wash clothes or any other article in any water body, or water feature or otherwise do anything to pollute any water therein.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

CHAPTER 4

MISCELLANEOUS PROVISIONS

26. Application for permission

A person who requires the Municipality's written permission for any action undertaken in these by-laws, must apply in writing to the Municipality at least 48 hours prior to the commencement of the action on the form provided for those purposes.

27. Appeal

An aggrieved person may in terms of section 62(4)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the Municipal Manager.

28. 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 achievement of a 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 a community in whose immediate and urban open space is situated;
 - (c) a designated official or officials of the municipality; and
 - (d) a councillor.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, 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.

29. Traditional councils

The municipality may, in the spirit of sections 4(1) and 5 of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003), liaise with a traditional council regarding the implementation and enforcement of the provisions of these by-laws within the area of jurisdiction of such traditional council.

30. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of these by-laws.
- (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)(a), 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.

31. Penalties and expenses

- (1) A person who committed an offence is, upon conviction, liable to a fine or imprisonment.
- (2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.
- (3) Any person who, after conviction in terms of these by-laws, persists in the conduct or neglect which constituted the offence, shall be guilty of a continuing offence and liable to a fine that the court in its discretion may deem fit.
- (4) Subject to an order as to costs by a competent court, the Council may recover from any person the costs incurred by the Council to collect or attempt to collect from such person, any amount due by him to the Council in terms of these by-laws.

32. Repeal

The Regulations regarding Parks, Lakes and Open Spaces of the former Bloemfontein Municipality promulgated under Administrator's Notice No. 67 of 21 May 1926, as amended, are hereby repealed.

33. Short title and commencement

These By-laws are called the By-laws regarding Urban Open Spaces, and commence on the date of publication thereof in the Provincial Gazette.