

DEPARTMENT OF TRADITIONAL AND LOCAL GOVERNMENT AFFAIRS

PROVINCIAL GOVERNMENT NOTICE

No., 2015

I, under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and after having consulted the Minister of Provincial and Local Government Affairs and Organised Local Government in the Province, hereby make the standard By-laws contained in the Schedule hereto.

Signed at _____ on this ____ day of _____ Twenty Fifteen.

N DUBE

Member of the Executive Council of the Province of KwaZulu-Natal responsible for local government

MANDENI MUNICIPALITY BY-LAWS RELATING TO ACCOMMODATION ESTABLISHMENTS

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate accommodation establishments in the municipal area for the benefit of the resident or visiting public;

NOW THEREFORE be it enacted by the Council as follows:

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1. DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"Accommodation establishment" means any place in which accommodation is provided for gain to four or more people, with or without meals, but excludes a private home;

"Authorized official" means:

- [a] an official of the Municipality; or
- [b] an official of another municipality; or

- [c] an official of another organ of state; or
- [d] a person contracted by the Municipality and with whom the Municipality has concluded an agreement either directly or on an agency basis for the rendering of services in terms of these by-laws and/or to which or to whom the Municipality has delegated a duty, function or power under these by-laws, provided that the official or person concerned must be a duly registered environmental health officer or health practitioner;

"Council" means the Council of the Municipality or any committee, political office bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

"Compliance Notice" means a notice issued in terms of section 6 to comply with these by-laws or with the conditions of a permit issued in terms of these by-laws;

"Dormitory" means a sleeping room in which sleeping accommodation is provided for four or more persons;

"Permit" means a public health permit granted by the Municipality in terms of section 4;

"Municipality" means the Mandeni Local Municipality and includes the Council thereof and should the context so require also the authorized official;

"Prohibition Notice" means a notice issued in terms of section 7;

"Public health" means the mental and physical health and well-being of people in the municipal area;

"Public health hazard" means any actual threat to public health, and without limitation, includes –

- [a] unsanitary conditions;
- [b] circumstances that make it easier for a communicable disease to spread;
- [c] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- [d] circumstances that allow pests to infest any place where they may affect public health;

"Public health nuisance" means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard

occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant.

2. REQUIREMENTS FOR PREMISES

[1] Except under authority of permit issued by the Municipality in terms of these by-laws, no person may operate an accommodation establishment on premises that do not comply with the following requirements:

[a] No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow:

[i] less than 11,3m² of free air space and 3,7m² of floor space for each person over the age of 10 years; or

[ii] less than 5,7m² of free air space and 1,9m² of floor space for each person under the age of 10 years.

[2] No latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, cellar or loft may be used as sleeping accommodation.

[3] If a dormitory is provided on the premises –

[a] a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;

[b] a separate locker must be provided for every person making use of the dormitory for safeguarding the person's personal clothing and other possessions;

[c] every bed in a dormitory must be placed such that its sides are at least 1m away from any part of any other bed.

[4] An accommodation establishment must be provided with –

[a] an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the premises;

[b] adequate separate wash-up facilities; and

[c] where meals are provided to persons housed on the premises –

[i] a dining-room or adequate dining area with tables and chairs or benches; and

[ii] unobstructed floor area [including the area occupied by tables, chairs and benches] of at least 1.2m² for every seat provided for dining purposes.

[5] An accommodation establishment must be provided with one or more showers that must each be –

[i] suitably placed in a separate compartment;

[ii] easily accessible to all occupiers of the premises; and

[iii] fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.

[6] A bath fitted with a waste pipe may be substituted for each shower referred to in subsection [5] hereof.

[7] The facilities referred to in subsections [5] and [6] hereof must be designated for the different sexes.

[8] An accommodation establishment must be provided with sanitary facilities as prescribed in the National Building Regulations and Building Standards Act, 1977, and such fixtures must be designated for the different sexes.

[9] An accommodation establishment must be provided with an adequate supply of hot and cold running potable water.

[10] All rooms in an accommodation establishment must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act, 1977.

[11] Openings in rooms in accommodation establishments such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide.

[12] A separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with the accommodation establishment, pending removal thereof to be laundered; and

[13] When articles used in connection with the accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.

[14] A store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment, must be provided.

[15] All walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;

[16] The floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and

[17] The floor surface of every habitable room must be constructed of an approved material.

[18] The following facilities must be provided for people who are employed and also reside on the premises:

[a] sleeping quarters equipped with a bed, mattress and locker that comply with the provisions of subsections [1], [2] and [3] for each employee; and

[b] where employees are not provided with meals on the premises, food preparation and dining facilities that comply with the provisions of subsection [3][c].

[19] Adequate changing facilities must be provided for non-resident employees.

[20] Adequate ablution and sanitary facilities that comply with the provisions of subsection [6] and subsection [8] must be provided for resident and non-resident employees.

[21] An adequate refuse holding area must be provided and an approved refuse removal system must be maintained.

[22] All walls, floors and roofs must be constructed in a manner that prevents wind and rain entering the premises or dampness entering the interior surfaces of the walls and floors.

[23] All accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and

[24] All windows must be constructed in a manner that prevents rain entering the premises when the windows are closed.

2. DUTIES OF THE OPERATORS OF ACCOMMODATION ESTABLISHMENTS

Every person who operates an accommodation establishment must –

[a] keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen and other bedding, towels and cloths of whatever nature, used in connection with the accommodation establishment, in a clean, hygienic and good condition at all times;

[b] clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;

[c] take adequate measures to eradicate pests on the premises;

[d] provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;

[e] provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;

[f] store all dirty linen, blankets, clothing, curtains and other articles used in connection with the accommodation establishment in the manner referred to in section 2[12];

[g] store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner referred to in section 2[13];

[h] keep all sanitary, ablution and water supply fittings in good working order;

[i] keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at regular intervals to ensure that the area painted remains clean and in a good state of repair; and

[j] handle refuse in the manner referred to in section 2[21].

3. PERMIT TO OPERATE AN ACCOMMODATION ESTABLISHMENT

[1] Any person intending to obtain a permit to operate an accommodation establishment must apply to the Municipality in writing in a form stipulated by the Municipality, prior to operating such establishment.

[2] When the Municipality receives an application for a permit, it must ensure that the relevant premises are inspected by the authorized official as soon as reasonably possible.

[3] Before deciding whether or not to approve an application referred to in subsection [1], the Municipality –

[a] must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for an accommodation establishment, have been consulted and have had an opportunity to make representations with regard to such proposal; and

[b] may request the applicant to provide any further information which the Municipality considers relevant to enable it to make a properly informed decision.

5. GENERAL TERMS APPLICABLE TO PERMITS

[1] A permit issued in terms of these by-laws –

[a] is not transferable from one person to another; and

[b] applies only to the premises specified in the permit.

[2] Every permit must –

[a] specify the address and other relevant details regarding the location of the premises concerned;

[b] describe the premises concerned;

[c] describe the authorized use or activity concerned;

[d] specify terms and conditions, if any; and

[e] indicate when it expires.

[3] The Municipality may levy a fee for considering and granting a permit in terms of these by-laws and in accordance with the provisions of the applicable tariff policy.

[4] The Municipality may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.

6. COMPLIANCE NOTICE

[1] If an authorized official after inspecting the premises of an accommodation establishment reasonably believes that a public health hazard or public health nuisance exists on such premises or that the premises are being used for a purpose in contravention of these by-laws, he may serve a compliance notice on one or more of the following persons:

[a] the owner of the premises;

[b] the occupier of the premises;

[c] any person apparently in charge of undertaking the aforesaid use on the premises.

[2] A compliance notice must state –

[a] why the authorized official believes that these by-laws are being contravened;

[b] the measures that must be taken –

[i] to ensure compliance with these by-laws; or

[ii] to eliminate or minimise any public health nuisance;

[iii] the time period within which the measures must be taken;

[iv] the possible consequences of failing to comply with the notice; and

[v] how to appeal against the notice.

[c] If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –

[i] take the required action specified in the compliance notice; and

[ii] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or

[iii] direct that a prohibition notice be served on such person in terms of section 7 of these by-laws.

7. PROHIBITION NOTICE

[1] An authorized official may, after inspecting premises apparently used as an accommodation establishment contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the premises from being so used and requiring measures to be taken to ensure that this occurs.

[2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless he reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

[3] A prohibition notice must state –

[a] the reasons for serving the notice;

[b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;

[c] the possible consequences of failing to comply with the notice; and

[d] how to appeal against the notice.

[4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

[5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

[6] It is a defence for any person charged with failing to comply with a prohibition notice to prove that –

[a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

[b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

8. WITHDRAWAL OF PROHIBITION NOTICE

[1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a Prohibition Notice, carry out an investigation of the premises.

[2] After completing the investigation, the authorized official must inform the person on whom the Prohibition Notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.

[3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

9. SUSPENSION, CANCELLATION AND AMENDMENT OF PERMITS

[1] An authorized official may suspend or cancel a permit with immediate effect if –

[a] he reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and

[b] the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with such notice.

[2] An authorized official may suspend or cancel a permit after giving the holder a reasonable opportunity, not exceeding 10 working days, of making representations as to why the permit should not be suspended or cancelled if –

[a] he reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or

[b] the holder of the permit fails to comply with a compliance notice.

[3] An authorized official may amend a permit by endorsing the permit or by written notice to the holder, if he reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

10. APPEALS

[1] A person whose rights are affected by a decision taken by any authorized official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must promptly submit the appeal to the appropriate appeal authority referred to in section 62 of the Local Government: Municipal Systems Act, 2000.

[3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[4] An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

11. OFFENCES AND PENALTIES

A person is guilty of an offence and liable on conviction to a fine, or in default of payment to imprisonment for a period not exceeding 6 months, if he –

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

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

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

[d] obstructs or hinders any authorized official in the execution of his duties under these by-laws.

12. DELIVERY OF NOTICES

[1] A notice, order or other document is to be regarded as having been properly served if –

[a] it has been delivered to that person personally;

[b] sent by registered post to the person to whom it is addressed at his or their last known address;

[c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

[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 for in subsections [1][a], [b] or [c]; or

[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 premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

[a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and

[b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

13. WAIVER OF PROVISIONS

[1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws: provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.

[2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

14. REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

MANDENI MUNICIPALITY: ADVERTISING SIGNS AND HORDINGS BY-LAW, 2015



Adopted by Council on the:

Promulgated on:

ADVERTISING SIGNS AND HOARDINGS: BY-LAWS

PREAMBLE

WHEREAS the community of the Mandeni Local Municipality has legitimate interests in ensuring:-

1. That signs or advertisements do not constitute a danger or nuisance to members of the general public whether by way of obstruction, interference with traffic signals or with the visibility of such signals, light nuisance or otherwise;
2. That signage or advertising displayed in its living environment is aesthetically pleasing, appropriate and placed at appropriate sites with an uncluttered effect;
3. That its environment for tourism is characterized by a high standard of user friendly signage and advertising satisfactorily integrated into the environment;

AND WHEREAS individual businesses have legitimate interests in the proper advertising of their businesses, wares and products;

AND WHEREAS it is the duty of the Council of Mandeni to balance the competing interests in a fair, equitable, flexible and responsible way;

NOW THEREFORE the following By-laws are adopted as the Advertising Signs and Hoardings: By-laws, for the Mandeni Municipality.

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1. DEFINITIONS

In these By-laws, unless the context otherwise indicates:

“Advertisement” means any representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or of any sign or symbol; or any light which is not intended solely for illumination or as a warning against any danger, which is visible from any street or public place.

“Advertising hoarding” means a screen, fence, wall or other structure in a fixed position to be used, or intended to be used, for the purpose of posting, displaying or exhibiting any advertisement.

“Advertising sign” means any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement, in view of any street or public place.

“Advertising structure” means any physical structure built to display advertising.

“Aerial sign” means any sign attached to a kite, balloon, or similar device whereby it is suspended in the air over any part of the area.

“Affix” means to firmly secure which includes to paint onto and "affixed" shall have a corresponding meaning.

“Animation” means moving units or pictures, flashing lights, and other non-stationery devices which are used to gain added attention and awareness.

“Approved” means approved by the Council and “approval" has a corresponding meaning.

“Arcade” means a covered pedestrian thoroughfare not vested in the Council, whether or not located at ground level passing wholly or partly through a building and to which the public normally has regular and unrestricted access.

“Backlight units” (backlit) means advertising structures which house illumination in a box to throw light through translucent advertising printed on plastic or heavy duty paper for a higher visibility and extended night viewing.

“Billboard” means a large free-standing structure used or intended to be used for the purpose of posting, displaying or exhibiting any advertisement.

“Building” means any structure whatsoever with or without walls, having a roof or canopy and a normal means of ingress and egress thereunder, covering an area in excess of 4.6m² and having an internal height of more than 1.650m.

“Canopy” means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts.

“Charge” means the appropriate monetary charge determined by the Council.

“Clear height” means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below such sign.

“Copy (Artwork)” means the complete advertising message to be displayed.

“Commercial Advertising” means any words, letters, logos, figures, symbols, pictures relating to the name of a business, a trade, a partnership or an individual or any information, recommendation or exhortation in respect of any particular goods manufactured or sold or any particular services rendered or offered.

“Composite sign” means a sign linked to a standardised background of a specific size similar to a poster board on which logos or other tourist-related information can be attached.

“Council” means the Mandeni Council or its successor(s) in-law or any officer employed by the Council or any committee designated by the Council, acting by virtue of a delegated authority vested in him/her or it by the Council in connection with these by-laws.

“Cut-outs / embellishments / add-ons” means letters, packages, figures or mechanical devices attached to the face of an outdoor sign which extend beyond the rectangular area for greater attention value. (Can provide a three dimensional effect.)

“Depth of a sign” means the vertical distance between the uppermost and lowest edges of the sign.

“Directional sign” means a sign indicating the way to a place, undertaking or activity for the purpose of advertising or directing public attention as contemplated in the definition of "Advertisement".

“Display of a sign” shall include the erection of any structure if such structure is intended solely or primarily for the support of a sign.

“Display period” means the exposure time during which the individual advertising message is on display.

“Election” means either National, Provincial or Local Government elections and by-elections held from time to time.

“Erf” means any piece of land registered in a deeds registry as an erf, lot, plot, stand or agricultural holding.

“Flashing sign” means a sign in which a symbol, figure, message or illustration intermittently appears and/or disappears and/or illuminated with varying colour or intensity.

“Flat sign” means any sign which is affixed to or painted directly on a main wall and which at no point projects more than 250mm in front of the surface of such wall.

“Flyposter” means any poster which is pasted by means of an adhesive directly onto a surface.

“Ground sign” means any sign detached from a building, other than an aerial sign, hoarding, billboard or advertising structure.

“Illuminated” means the installation of electrical equipment on an outdoor structure for illumination of the copy message at night.

“Illuminated sign” means a sign, the continuous or intermittent functioning of which depends upon it being illuminated.

“Inflatable sign” means any hoarding erected and maintained by means of air or gas used for the purpose of posting or displaying any advertisement.

“Main wall of a building” means any external wall of such building, but shall not include a parapet wall, balustrade or railing of a verandah or a balcony.

“Movable temporary sign” means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part in a fixed permanent sign.

“Non-profit body” means a body established to promote a social goal without the personal financial gain of any individual or profit making commercial organization involved and which submits adequate proof to the satisfaction of the Council of its non-profit status.

“Person” includes both natural and juristic persons.

“Poster” and notices means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to National, Provincial or Local Government or similar body or to a referendum.

“Projected sign” means any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance.

“Projecting sign” means a sign, whether stationary or actuated, attached to and protruding from the facade of a building.

“Public place” means any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the Council.

“Pylon sign” means any sign whether stationary or actuated, displayed on or forming an integral part of a pylon or mast or similar structure other than a building or advertising hoarding.

“Residential purposes” means the use of a building as a dwelling house, two or more dwelling units, a hostel, a boarding house, and a residential club.

“Road traffic sign” means any road traffic sign as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989), the detailed dimensions and applications of which are controlled by the regulations to this Act and the South African Road Traffic Signs Manual (Note: Act 29 will be replaced by The National Road Traffic Act, Act 93 of 1996 in the near future).

“Rotating sign” means a sign, which rotates about any axis.

“Running light sign” means a sign or portion of a sign in the form of an illuminated strip, the illumination of which varies periodically in such a way as to convey the impression of a pattern of lights moving steadily along such strip.

“Shelter displays means posters positioned as an integral part of a freestanding covered structure.

“Sign Alley” is a section of road where advertising structures have been permitted at less than prescribed distances but in such a manner that no advertising structure shall obstruct another in any way.

“Sky sign” means any sign erected or placed on or above any roof, parapet wall or the eaves of a building, but does not include a sign painted on a roof of a building.

“Spectacular (an industry term)” means a giant, modern, illuminated advertising billboard.

“Storey” means the space within a building which is situated between one floor level and the next floor level next above, or if there are no clearly defined storeys, the height of a storey shall be taken as 4,5m.

“Street” means any street, road or thoroughfare shown on the general plan of a township, agriculture holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the Council.

“Temporary advertisements” means signs and advertisements which are usually displayed to publicise a forthcoming event or to advertise a short term use of the advertisement site.

“Temporary sign” means a sign not permanently fixed and not intended to remain fixed in one position.

“Third-party advertising” means any advertising displayed which is not appropriate to the type of activity on the erf or site to which it pertains.

“Transit advertising” means all advertising on normally moving vehicles including taxis, buses, trailers, trams, vessels, etc.

“Tri-vision” means a display embellishment, which, through use of a triangular louver construction, permits the display of three different copy messages in a predetermined sequence.

“Verandah” means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

“Window signs” are signs, which are permanently painted on, or attached to, the window-glass on a window.

2. APPLICATIONS FOR COUNCIL'S APPROVAL FOR ADVERTISING

SIGNS AND HOARDINGS

- (1) No person shall display or erect any advertising sign or hoarding or use any advertising sign or hoarding or use any structure or device as an advertising sign or hoarding without first having obtained the written approval of the Council; provided that the provisions of this Clause shall not apply to signs contemplated in Clause 4,
- (2) No sign erected displayed with the approval of the Council shall in any way be altered, moved, re-erected nor shall any alteration be made to the electrical wiring system of such sign except for the purposes of renovating or maintenance, without the further approval of the Council in terms of sub-clause (1).
- (3) (a) An application in terms of sub-clause 1, accompanied by the required application fee, specified in the tariff of charges, as determined by Council and subject to Clause 40, shall be signed by the owner of the proposed advertising sign or hoarding and by the registered owner of the land or building on which the sign or advertising hoarding is to be erected or displayed, or on behalf of the owner of the land or building by his agent authorised in writing by such owner and shall be accompanied by:
 - (i) a locality plan indicating the anticipated position of the sign within the area of the Mandeni Municipality . The Council may require the locality for signs in excess of 10 square metres to be indicated and described by an accurate G.P.S. reading or an acceptable alternative

- (ii) a block plan of the site on which the advertising sign or hoarding is to be erected or displayed, drawn to a scale of not less than 1:500 showing every building on the site and the position with dimensions of the sign or advertising hoarding in relation to the boundaries of the site and the location of the streets and buildings on properties abutting the site;
- (iii) a drawing sufficient to enable the Council to consider the appearance of the advertising sign or hoarding and all relevant construction detail;
- (iv) a drawing showing the advertising sign or hoarding in relation to other similar type signage in the area in which it will be erected.

(b) Every such plan and drawing shall be clearly reproduced on an approved material in sheet form not less than A4 size (210mm x 297mm); and

(c) A drawing required in terms of paragraph (a)(iii) shall show all details of the sign and shall be drawn to a scale of not less than 1:20 or other scale acceptable by Council.

(d) The Council may require additional information in relation to the land on which the sign is to be erected, its use and impact.

(4) If a sign is to be attached to or displayed on the facade of a building, the Council may require the submission of an additional drawing showing an elevation of the building in colour, the details and position of the proposed sign and the details and the position of every existing sign on the building drawn to a scale of not less than 1 : 100, or the Council may require a coloured print of or an artist's photographic or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and draw as nearly as is practicable to the same scale as that of the graphic.

(5) The Council may require the submission of additional drawings, calculations and other information and a certificate by a person defined in Clause 1 of the Engineering Profession of South Africa 1990 (Act No. 114 of, 1990) as a certified engineer, engineering technician, professional engineer or professional technologist (engineering), in each case giving details to the Council's satisfaction, to enable it to establish the adequacy of the proposed means of securing, fixing or supporting any advertising sign, hoarding or screen referred to in Clause 13, to resist all loads and forces to which the advertising sign, hoarding or screen may be exposed and the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation B1 of the National Building Regulations published under Government Gazette No. 9613, dated 1 March 1985.

(6) In considering an application submitted in terms of sub-clause (1), the Council may, in addition to any other relevant factors, have due regard to the following:

- (a) No advertising sign or hoarding or copy should be so designed or displayed that:
- (i) it will be detrimental to the environment or to the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (ii) it will constitute a danger to any person or property;
 - (iii) it will display any material which in the opinion of the Council is indecent, suggestive of indecency, prejudicial to public morals or objectionable;
 - (iv) it will obliterate any other signs;
 - (v) it will in the opinion of the Council be unsightly or detrimentally impact upon a sound architectural design;
 - (vi) it will in any way impair the visibility of any road traffic sign or affect the safety of motorists or pedestrians,
- (b) The size and location of a proposed advertising sign or hoarding and its alignment in relation to any existing advertising sign or hoarding or the same building or erf and its compatibility with the visual character of the area surrounding it.
- (c) The number of signs displayed or to be displayed on the erf concerned and its legibility in the circumstances in which it is seen;
- (d) The sign, if not appropriate to the type of activity on or zoning of the erf or site to which it pertains should be considered on its merits in terms of the control measures of the Council's Outdoor Advertising Signage Policy and Code of Practice and the S.A.M.O.A.C. guidelines.
- (7) The Council, subject to Clause 41, may refuse any application submitted in terms of sub-clause (1) or grant its approval subject to any amendment and/or condition which it may deem expedient, including a condition that the owner of any advertising sign or hoarding or the owner of the land or building on which such advertising sign or hoarding is to be erected and displayed, or both such owners, indemnify the Council to its satisfaction against any consequences flowing from the erection, display or mere presence of such advertising sign or hoarding.
- (8) The Council shall without delay and in writing notify the applicant, an objector or any person who has made representations, of its decision taken by virtue of sub-clause (7).
- (9) Every application, plan, drawing and other document submitted in terms of this Clause shall on approval be retained by the Council for its records.

- (10) Any sign or advertising hoarding for which approval has been granted in terms of sub-clause (7), shall be erected and displayed in accordance with any plan, drawing or other document approved by the Council and any condition imposed in terms of that sub-clause; the Council shall be notified once any approved advertising sign or hoarding has been erected.
- (11) Notwithstanding anything contained in these By-laws, any advertising sign or hoarding which complies to the Council's satisfaction, with the considerations referred to in sub-clause (6)(a), may be approved by the Council.
- (12) Notwithstanding anything contained in these By-laws, these By-laws are to be applied to the Land Use Zones as set out in the enforceable Town Planning Scheme/Land Use Scheme for the area of jurisdiction of the Mandeni Municipality.
- (13) Advertising signs and hoardings approved in terms of Clause 2(7) will conform to the design requirements set out in Clause 28,

3. WITHDRAWALS OR AMENDMENT OF COUNCIL'S APPROVAL

- (1) The Council may, at any time, withdraw an approval granted in terms of Clause 2(7) or amend any condition or impose a further condition in respect of such approval, if in the opinion of the Council an advertising sign or hoarding:
 - (a) Will be or become detrimental to the environment or the amenity of the neighbourhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (b) Will constitute or become a danger to any persons or property;
 - (c) Will obliterate other signs, natural features, architectural features or visual lines of civic or historical interest.
- (2) Should an approved advertising sign or hoarding not be erected within six (6) months from approval or within a time specified in the approval granted, the approval will lapse.
- (3) Should the information requested by the Council to process a signage application not be provided within a three-month period from the date of the request, the application shall be regarded withdrawn.

4. EXEMPT SIGNS

- (1) The following signs shall be exempt from the provisions of Clause 2 but shall comply with all other provisions of these By-laws save for signs contemplated in (a) and (b) which need not so comply:
 - (a) any sign displayed in an arcade;
 - (b) any sign displayed inside a building;
 - (c) any sign displayed on an approved advertising hoarding;
 - (d) any sign advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture or building especially made for such display;
 - (e) any sign not exceeding the sizes specified hereunder, which is displayed on a site where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and which describes the building or structure being erected or other work or activity being carried out, and which displays the names of the contractors or consultants concerned in such work or activity and identifies the branches of the industry or the professions represented by them, during the course of such construction, erection, carrying out of alterations as the case may be: Provided that only one such sign, or set of signs

shall be permitted per street frontage of a site; and which is placed on or affixed to the building concerned or attached parallel on the boundary fence of the erf on which the building is situated. Such signs are to be removed within 21 days of the completion of the contract. Signage for ongoing maintenance contracts is not permitted;

(i) Project boards, 6m² and with a maximum erected height of 6m, giving the names of Architects, Consultants and Contractors;

(ii) Individual Contractors and Sub-Contractor's Board: 2m². ;

- f) any sign, other than a sign provided for in paragraph (e), not exceeding 12m², and not exceeding a maximum erected height of 6m, which portrays or describes the type of development being carried out on a site and which gives details of the type of accommodation being provided, floor space available, the name, address and telephone number of the developer or his agent, erected during construction work or the carrying out of alterations or additions as the case may be and remaining for a period not exceeding 2 months after the completion of such work;
- (g) a sign on a street frontage of a building occupied by shops, showrooms or other business uses as defined in the relevant Town Planning Scheme, other than a sign in an office park area, which is below the level of the ground floor ceiling and which is displayed on or fixed to the face of a building or suspended from the soffit of a canopy or verandah roof;
- (h) a sign consisting of a 600mm x 450mm metal plate or board permitted in terms of Clause 14;
- (i) any flag hoisted on a suitable flag pole which displays only a company name and motif. A maximum of 5 flag poles of 7m in height is permitted unless specific permission has been applied for as contemplated in terms of Clause 2 for more than 5 flag poles;
- j) any sign in a locality wholly or mainly used for residential purposes, other than a brass plate or board not exceeding 600mm x 450mm in size, affixed indicating the name, address and telephone number of a security company contracted to protect the property, provided that only one sign per stand or subdivision shall be permitted and such sign shall be firmly affixed to the boundary wall, fence or gates on the street frontage;
- (k) one sign not exceeding 600mm x 450mm in size on each street boundary of an erf or portion of an erf which sign indicates the existence of a commercial security service, burglar alarm system etc.
- (l) a sign not exceeding 2m², indicating the existence of a Block or Neighbourhood Watch System, displayed on a boundary wall or fence or in a position approved

by the Council. If erected on its own pole(s), the minimum underside clearance of the sign above the pavement must be 2.1m.

- (2) The owner of the building or property on which a sign contemplated in sub-clause (1)(g) is displayed, shall indemnify the Council against any consequences flowing from the erection, display or mere presence of the sign.
- (3) Any sign which does not comply with the provisions of these By-laws and which was lawfully displayed on the day immediately preceding the date of commencement of these By-laws shall be exempt from the requirements of these By-laws if the sign in the opinion of the Council is properly maintained and is not altered, moved or re-erected as contemplated in Clause 2(2).
- (4) Road traffic signs erected in terms of any Act of Parliament, Provincial Ordinance or By-law are exempt from the provisions of these By-laws.
- (5) Any sign erected as a specific requirement in terms of any By-law, Provincial Ordinance or Act of Parliament is exempt from these By-laws.
- (6) Any transit sign, which is mobile at all times and complies with all requirements of the Road Traffic Act is exempt from these By-laws.

5. PROHIBITED SIGNS

No person shall erect or cause or permit to be erected or maintained any of the following signs:

- (1) Any sign painted on the roof of a building or painted on, attached to, or fixed between the columns or posts of a verandah.
- (2) (a) any sign which projects above or below any fascia, bearer, beam or balustrade of a street verandah or balcony;

(b) any luminous or illuminated sign which is fixed to any fascia, bearer, beam or balustrade of any splayed or rounded corner of a street verandah or balcony.
- (3) Any sign suspended across a street unless otherwise approved by Council.
- (4) Any sign on calico, paper mache, plastic, woven or similar material or of any kind whatsoever, except those provided for in terms of Clause 20 or unless consisting of flexface within an approved advertising sign.
- (5) Any swinging sign, which is a sign not rigidly and permanently fixed.
- (6) Any sign which may either obscure a road traffic sign, be mistaken for with or interfere with the functioning of a road traffic sign.
- (7) Any sign which may obscure traffic by restricting motorists' vision and lines of sight thus endangering motorists' safety.
- (8) Any sign which is indecent or suggestive of indecency, prejudicial to public morals or is reasonably objectionable.
- (9) Any sign which will obstruct any window or opening provided for the ventilation of a building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof to another part thereof.
- (10) Any animated or flashing sign the frequency of the animations or flashes or other intermittent alternations of which disturbs the residents or occupants of any building or is a source of nuisance to the public or impairs road traffic safety.
- (11) Any illuminated sign, the level of illumination of which unreasonably disturbs the residents or occupants of any building or is a source of nuisance to the public.

- (12) Any movable temporary or permanent sign other than those specifically provided for in these By-laws.
- (13) Any sign referring to a price or change in price of merchandise except in a shop window, or on the article itself.
- (14) Any advertisement or sign other than an exempted sign, for which neither a permit nor approval has been obtained.
- (15) Any poster otherwise than on a hoarding legally erected for the purpose of accommodating such poster.
- (16) Any sign or signs, the total area of which exceeds 30m², painted or fixed on a wall of a building not being a front wall of such building, unless approved in terms of the policy for the promotion of Outdoor Advertising in the Mandeni Municipality area.
- (17) Any sign painted on any fence or boundary wall, not being an approved sign or hoarding.
- (18) Any sign which does not comply with the requirements of or which is not permitted by these By-laws.
- (19) Any sign which may obstruct pedestrian or vehicular traffic.
- (20) Any form of flyposting on private or Council, property or assets.
- (21) Any transit advertising sign that is parked irrespective of whether it is attached to a vehicle or not.
- (22) Any poster or sign attached to a tree.
- (23) Any poster attached or pasted to a bridge.
- (24) Any temporary sign for commercial or third-party advertising erected on Council land or land vested in the Council, unless by prior signed encroachment agreement or contract with the Council.
- (25) Any sign attached to a bridge or any other Council asset, unless by prior signed agreement or contract with the Council.
- (26) Any third party advertising sign on any property zoned "Residential" in terms of the relevant Town Planning Scheme whether secondary rights or not have been granted by Council and which are exercised on the erf.
- (27) Any sign or poster attached to a Road Traffic Sign.

6. SIGNS SUSPENDED UNDER VERANDAHS OR CANOPIES

Every sign, which is suspended from a verandah or a canopy, shall comply with the following requirements:

- (1) Unless the Council otherwise permits, having regard to the design of the verandah or canopy and its associated building and to the position of the building in relation to the street boundary of the erf, the sign shall be fixed with its faces at right angles to such boundary.
- (2) No part of the sign shall project beyond the outer edge of the verandah or canopy from which it is suspended.
- (3) No part of the sign shall be less than 2.4m above the surface of the sidewalk or ground level immediately below it, nor should the top of the sign be more than 1 m below the canopy or verandah from which it is suspended nor shall any sign exceed 1m in depth.
- (4) Unless the Council in writing otherwise permits, the bottom edge of the sign when suspended shall be horizontal and the supports by means of which the sign is suspended, shall be an integral part of the design of the sign.

7. SIGNS ON VERANDAHS AND CANOPIES OVER STREET

(1) Save as herein before provided with regard to hanging signs, every sign affixed to or onto a verandah over a street shall be set parallel to the building line.

(2) Such signs shall not exceed 600mm in depth and shall be fixed immediately above the eaves of the verandah roof in such manner as not to project beyond the rear of the roof gutter or shall be fixed against but not above or below the verandah parapet or balustrade in such manner as not, to project more than 230mm from the outside face of such parapet or balustrade: Provided that

(a) a sign on a public building fixed to or on a verandah over a street and which displays only the features or programme of an entertainment to be given in such public building shall:

- (i) have a maximum area of 1m in the aggregate for every 1.5m or part thereof of the frontage of such building to the street over which the sign is erected;
- (ii) not exceed 1.2m in height.

(b) nothing in this Clause contained shall be taken to prohibit the painting of signs not exceed 600mm in depth on beams over verandah columns, or on parapets of verandahs;

- (c) no illuminated sign or sign designed to reflect light, shall be attached to or displayed on any splayed or rounded corner of a verandah or canopy at a street intersection.

8. PROJECTING SIGNS

(1) All projecting signs shall be set at right angles to the building line and shall be fixed at a height of not less than 2,75m above the pavement.

(2) Save as is provided in sub-clause (3), no projecting signs shall exceed 600mm in height, nor project more than 900mm from the building to which they are attached.

(3) Notwithstanding the provisions of sub-clause (2), larger projecting signs may be erected: Provided:

- (a) the owner of the building or the person for whom the sign is being erected shall make application for and assume at responsibility in connection with such sign, including maintenance, an annual inspection to satisfy himself regarding its safety and liability for all loss or damage caused to any person or property by reason of or in any way arising out of the erection, maintenance or existence of such sign;

- (b) the design thereof shall be to the satisfaction of the Council, and it shall comply in all respects with these By-laws;

- (c) such sign shall be fixed at right angles to the street and the front of the building upon which it is erected;

- (d) such sign shall be constructed of metal framing and covered with metal sheeting and shall not exceed 300mm in depth from face to face;

- (e) such sign shall not exceed a mass of 450kg or 675kg in the case of a sign consisting only of the name of a central public entertainment building;

- (f) such sign shall not exceed 9m in height or 1.5m total projection from the building, or in the case of a sign consisting only of the name of a central public entertainment building, 14m in height and 1.8m in total projection from the building: Provided that this paragraph shall not apply to any sign which has been erected prior to the date of the publication hereof;

- (g) the sign shall be supported, by at least four iron brackets properly fixed to the building, any two of which shall be capable of carrying the whole mass of the sign, together with wind pressure, against which pressure the sign shall be satisfactorily braced and stayed;

- (h) upon receipt of a notification by the Council under the hand of the Building Control Officer that such sign is unsafe, it shall be removed forthwith by the applicant without any compensation by the Council whatsoever;

- (i) the owner of such sign shall sign a form declaring himself to accept, and be bound by, the above conditions.

9. PYLON SIGNS

- (1) For the purposes of this Clause the word "pylon" includes any pylon, mast, tower or similar structure to which a sign is attached, supported, displayed or which is constructed as a sign.
- (2) Every pylon shall be independently supported and for that purpose be properly secured to an adequate foundation in the ground and be entirely self-supporting without the aid of guys, stays, brackets or other restraining devices.
- (3) The dimensions of a pylon and its associated pylon sign shall be such that the entire assembly, whether stationary or actuated, can be contained wholly within a notional vertical cylindrical figure having a diameter of 9m and a height of 12m or such dimensions as the Council may require.
- (4) No activated or protruding part of a pylon or of a pylon sign shall be less than 2.4m above the highest point of the existing ground level immediately below such pylon or sign or such other height as the Council may require.
- (5) The Council may consider on merit a request by the owner of a property which adjoins Council road reserve to erect a pylon solely for the display of the name of the business/s conducted at that particular property. An encroachment agreement shall be signed with the Council setting out the period and fee payable. The Council shall be indemnified against any claims.

10. SIGNS INDICATING THE DEVELOPMENT OF A TOWNSHIP OR PROPERTY

- (1) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development shall be erected prior to the land-use rights being promulgated.
- (2) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township or a property development shall exceed 12m², with a maximum erected height of 6m.
- (3) Any approval granted in respect of such a sign in terms of Clause 2, shall lapse after the expiry of one year after the date of such approval, unless an extension has been granted by the Council.
- (4) The sign must be located on the site of the proposed township or property development.
- (5) The Council may approve a larger sign or hoarding for a particular development after taking into consideration the size of the development which must be 5ha or larger on

condition that approval shall lapse after the expiry of one year after the date of such approval.

- (6) All signs must be removed within three months of a development being completed or occupied.

11. SIGNS FLAT ON BUILDINGS

- (1) The total area of any sign placed flat on the front wall of a building facing a street shall not exceed 20m² for every 15m of building frontage to the street which such sign faces with a maximum area of 200m².
- (2) The maximum projection of a sign referred to in sub-clause (1) over the footway or ground level shall be 75mm where such sign is less than 2,4m above the sidewalk or ground level immediately below such sign and 230mm where such sign is more than 2,4m above such footway or ground level
- (3) Signs placed flat on a wall of a building not being a wall contemplated in sub-clause (1), shall not exceed 20m² in total area, unless located in a commercial or industrial zone.
- (4) Notwithstanding the provisions of sub-clause (1) and (3), the Council may where it considers it desirable in the interests of the aesthetic appearance of the building/wall on which the sign is placed or of the neighbourhood of such building/wall, permit or require the dimensions of any such sign to be greater than those prescribed.

12. REQUIREMENTS FOR SKY SIGNS

- (1) Two or more sky signs placed one above the other, whether or not in the same vertical plane shall, for the purposes of, this Clause, be deemed to be one sign.
- (2) In areas of maximum or partial control (as defined in the Councils Outdoor Advertising Policy and Code of Practice) every sky sign shall be set against a screen complying with the requirement of Clause 13.
- (3) No part of a sky sign shall protrude beyond, above or below the edge of the screen required in terms of sub-clause (2).
- (4) If the number of storeys contained in that part of a building which is directly below a sky sign as set out in column 1 of the following table, the maximum vertical dimension of such is recommended not to exceed the dimension specified opposite such number in column 2 of that table:

Number of Storeys Below Sign	Maximum Vertical Dimension
One or two storeys	1.5m
Three or four storeys	2.0m

Five or six storeys	3.0m
Seven or eight storeys	4.0m
Nine or more storeys	5.0m

(5) A skysign with dimensions other than the above table will be considered by Council on its merits.

13. SCREENS FOR SKY SIGNS

Every screen for sky sign required in terms of Clause 12(2) shall comply with the following requirements:

- (a) (i) Subject to the provisions of subparagraph (ii), every screen shall be so arranged and constructed as to form a continuous enclosure effectively concealing the frame and the structural components of the sky sign and the screen from view and, if the Council so requires, from adjacent or neighbouring properties;
- (ii) if, in the opinion of the Council, the walls of any contiguous buildings are of such height and construction that they will effectively conceal and do not contain openings overlooking the frame and structural components referred to in subparagraph (i), the Council may, subject to any condition it deems expedient, relax the requirement of that subparagraph requiring the provision of a continuous enclosure;
- (b) unless the Council allows otherwise, no part of the screen shall protrude beyond the perimeter of the building on which it is constructed;
- (c) the gap between the bottom of the screen and that part of the building immediately below it shall not exceed 100mm;
- (d) the vertical dimension of every such screen shall not exceed one-and-one-half times the vertical dimension of the sky sign as contemplated in Clause 12(4): Provided that if the screen also encloses a lift motor room, tank or other structure on the roof of the building, the vertical dimension of the screen may be increased to the same height as such room, tank or structure;
- (e) if the material of which the screen is made has an open mesh or grid formation, the openings in such mesh or grid shall be uniform, the aggregate area of the openings shall not exceed 25% of the area of the screen and no dimension of any such opening shall exceed 100mm: Provided that the Council may allow the erection of a screen of louvre design if it will ensure the effective concealment as required in terms of paragraph (a)(i)

14. SIGNS ON BUILDINGS USED FOR RESIDENTIAL PURPOSES

- (1) A single sign containing the name only of any building used for residential purposes other than a dwelling house, and a sign consisting of a 600mm x 450mm brass or other metal plate displaying the name of the company owning or managing such building, its logo and telephone number, may be displayed.
- (2) A sign contemplated in sub-clause (1) shall:
 - (a) be fixed to or built into one or more walls of the building or a freestanding wall or boundary wall of the property;
 - (b) not be internally illuminated;
 - (c) be limited to one each of the signs referred to in that sub-clause per street frontage of the property concerned.
- (3) A sign consisting of a 600mm x 450mm metal plate or board indicating the name and profession or occupation of the occupant may be affixed to the boundary wall or fence, or the entrance door of a dwelling house or dwelling unit, or to a wall in the entrance hall of a building used for residential purposes.
- (4) Where a business or profession is conducted from a property in a predominantly residential area by consent of the Council, or in terms of an Amendment Scheme (rezoning) a sign not exceeding 2m², advising the public as to the nature of the business or profession conducted on the premises, may be erected as an element of a street-facing boundary wall. Any sign so erected shall form an aesthetically integral portion of the architecture of either the street-, facing boundary wall or a substantial architecture element designed to the satisfaction of the Council on the boundary of the property in question. The sign so erected shall not, in the opinion of the Council, detract from the residential character of the neighbourhood or have a negative impact on the market value of adjacent residential properties

15. SIGNS ON AWNINGS

A sign containing only the name of a hotel, shop or restaurant may be displayed on an awning of approved material.

16. SUN-BLINDS

- (1) All sun-blinds shall be so made and fixed as to be incapable of being lowered to within 2m of the footway or pavement.
- (2) Except at street intersections, sun-blinds shall only be placed parallel to the building line.
- (3) At street intersections, sun-blinds, both new and existing, shall be so placed that they shall not cause any interference with vehicular or pedestrian traffic, traffic lights, street name plates or other notices for the guidance of the public.

17. SIGNS NOT TO BE FIXED TO VERANDAH COLUMNS

No sign of any description shall be fixed to street verandah posts or columns.

18. SIGNS REGARDED AS TENANCY AT WILL

- (1) Any person erecting or possessing signs on or over any street, footway or pavement shall be regarded a tenant at will of the Council in respect of such signs and, if instructed by the Council to remove any or all of them, shall do so either within 14 days if the sign is fixed to a pole or other structure, or immediately if the sign is free standing and portable, without any compensation either for direct, indirect or consequential damages.
- (2) The Council may remove such signs in the event of noncompliance with such instruction or if they are not in accordance with these By-laws, and the expenses of such removal shall be recoverable in the ordinary process of law from the owner of the building or from the person to whom the signs belong.

19. ADVERTISEMENTS ON BANNERS OR SIMILAR ITEMS

- (1) Subject to the provisions of Clause 4(1) and sub-clause (2) no advertisement shall be displayed on any banner, streamer, flag, paper, paper mache, plastic sheet or other similar pliable material or on calico or other woven material, without the written permission of the Council, subject to such conditions as the Council may deem expedient.
- (2) Permission in terms of sub-clause (1) shall only be granted for an advertisement relating to a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Local Government, Provincial or National election or referendum.
- (3) Every application for permission in terms of sub-clause (1) shall be in terms of the tariff of charges as determined by Council in respect of each advertisement to which the application relates.

(4) The Council or its authorised agent may, without notice, remove and destroy any advertisement contemplated in sub-clause (1) which is displayed in contravention of this Clause.

(5) Every person to whom permission has been granted in terms of sub-clause (1) shall ensure that the following requirements are complied with:

(a) not more than five advertisements shall be displayed in respect of one function or event and with no more than one advertisement per street front;

(b) every advertisement shall be attached to or suspended between poles or other supports on the site on which the function or event is to be held;

(c) every advertisement shall be so attached so as not to interfere with, or constitute a danger to passing vehicular or pedestrian traffic;

(d) no advertisement shall be displayed for more than one week before the date of the function or event advertised nor shall any such advertisement be permitted to remain in position for more than three days after the conclusion of such function or event.

(6) No banner approved in terms of this Clause may be larger than 6m².

20. ADVERTISEMENTS ON BALLOONS

The Council may, for the purpose of considering an application for approval in terms of Clause 2 of a sign to be displayed on a tethered balloon for a period not exceeding four days and being airborne only during daylight hours, have regard to:

(a) the period for which the balloon will so be used;

(b) the size of the balloon;

(c) the strength of the anchorage and of the anchoring cable;

(d) the provision of a device by means of which the balloon will automatically so deflate as to sink slowly to the ground in the event of the failure or severance of the anchorage or anchoring cable;

(e) the possibility of interference with traffic, pedestrian or vehicular;

(f) any requirement or condition prescribe by the Department of Civil Aviation, including the maximum permissible height to which the balloon must be restricted;

(g) the location of the balloon.

21. PAINTED ADVERTISEMENTS

- (1) Subject to the provisions of sub-clause (2), no sign shall be painted directly on to any building, canopy, column, boundary wall, post or structure, other than on the external or internal surface of a window.
- (2) Subject to the approval of the Council in terms of Clause 2, the name of any person or company carrying on business in a building may be painted directly on any approved wall of such building.
- (3) Subject to the approval of the Council in terms of Clause 2 murals with advertising painted directly onto any approved surface may be considered on merit.

22. TEMPORARY SIGNS AND ADVERTISING

- (1) Signs relating to the letting or selling of property, complying with the following requirements, may be displayed without the approval of the Council:
 - (a) any sign not exceeding 600mm x 450mm in size containing the words "for sale" in respect of any dwelling house or residential building and which in addition may display only the name, address and telephone number of the selling agent, and which is placed on or fixed to the building concerned, is attached parallel to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf. Such signs shall be limited to one sign per agent with a maximum of, three signs per erf;
 - (b) any one sign per street frontage not exceeding 600mm x 450mm in size, which contains only the word "Sold" in respect of any dwelling house, or residential building, and which:
 - (i) is displayed only after all signs referred to in paragraph (a) have been removed;
 - (ii) is placed on or fixed to the building concerned, or is attached to a boundary fence of the erf on which the building is situated or is otherwise displayed within the boundaries of such erf;
 - (c) any sign not exceeding 6m² fixed flat on the facade of a non-residential building which contains only the words "For Sale" or "To Let" and the name, address and telephone number for the selling or letting agent, or only the lettering for the word "Sold" with a maximum of one sign per building for a period not exceeding three months.
 - (d) any sign not exceeding 600mm x 450mm in size, displayed on a vacant residential erf and which displays only the words "For Sale" and the name, address and telephone number of the owner or his agent, or only the word "Sold". Such signs shall be limited to one sign per agency with a maximum of three agencies per erf for a maximum period of two months;

(e) Any sign not exceeding 6m² in size on a vacant non-residential erf and which displays only the words "For Sale" or "To Let" and the name, address and telephone number of the owner or his agent or only the word "Sold" and no other wording whatsoever with a only one sign per erf for a maximum period of three months.

(f) any directional sign displayed by the Automobile Association of Southern Africa or any other approved body advertising a particular event.

(2) Any sign, or banner not exceeding 4m² and not more than 3m above the ground, containing letters, figures, advertising emblems or devices, not exceeding 150mm in height, relating solely to an entertainment, meeting, auction or a sale to be held upon or in relation to a certain site, may be displayed upon such site: provided that such sign or banner shall not be displayed for more than one week before the function or event, the date of which must be displayed on the sign or banner, nor remain in position for more than three days after the conclusion of the function or event,

(3) Any selling or letting board(s) requiring the approval of the Council in terms of Clause 2(1) must conform to the design regulations currently in force with these By-laws.

(4) To consider at the Council's discretion temporary advertising on Council land or land vested in or controlled by the Council for a period not exceeding 30 days for special event signs.

23. SIGNS ON AND OVER STREETS

(1) Every person owning, displaying or causing to be displayed a sign which, or any part of which, overhangs, or is placed on any street shall, on being instructed by notice in writing by the Council to do so, remove it within twenty four hours from the date of such instruction or within such longer period specified in such notice without payment of any compensation.

(2) In the event of non-compliance with an instruction in terms of sub-clause (1), the Council may itself remove the sign concerned and may recover the cost thereof from the person or persons, jointly and severally, to whom a notice in terms of sub-clause (1) was addressed and such persons shall not be entitled to any compensation.

24. BILLBOARDS

(1) Any billboard displayed may not:

- (a) be in conflict with applicable National Legislation, or local By -laws;
 - (b) be detrimental to the nature or the environment in which it is located by reason of abnormal size, intensity of illumination or design;
 - (c) be in its content objectionable, indecent or insensitive to any Clause of the public or to any religious or cultural groupings or the like;
 - (d) unreasonably obscure partially or wholly any sign previously erected and legally displayed;
 - (e) constitute a danger to any person or property.
 - (f) encroach the boundary line of the property on which it is erected.
- (2) Road intersections - a maximum of 2 single-sided advertising boards per intersection may be permitted.
- (3) Spacing of billboards shall be at the discretion of the Council having regard to safety, aesthetics, environmental, local area frameworks and other considerations.
- (4) Billboards in rural areas shall be erected in such a way as not to obstruct one another, be of even height wherever possible and evenly spaced.
- (5) Where, in the opinion of the Council, a sign alley has been created the spacing of billboards shall be at the discretion of the Council.
- (6) Safety conditions:
Billboards shall be erected and serviced to comply with the following conditions:
- (a) Signalised intersection -
 - (i) they shall not have as main colours, red, amber, green and the advertising sign to be well clear of the signal heads;
 - (ii) they shall not obscure or interfere with any road traffic light or sign;
 - (b) Illumination -
Illumination of billboards is permitted provided such illumination does not constitute a road safety hazard or cause undue disturbance.
 - (c) Erection and servicing on public roads -
The traffic flow should not be impeded during erection and servicing of a billboard on a public road unless prior permission has been obtained and the necessary precautions arranged.
 - (d) Prohibited areas on motorways -

Billboards may be permitted within specified distances of on and off-ramps of motorways and overhead traffic directional signs where a curve in the road renders the billboard not to interfere with a clear and undistracted view of the directional traffic sign.

(7) Site identification –

Sign owner's name or logo must be clearly displayed.

(8) Maintenance -

Conduct regular site inspections to ensure the good condition of boards. Traffic flow should not be impeded during the servicing of a billboard on a public road unless prior permission has been obtained and the necessary safety precautions arranged.

(9) Size per copy - At the Council's discretion to a maximum of:

Areas of partial control - 40m²

Areas of minimum control - 81m²

(Areas of control defined in the Councils: Outdoor Advertising Policy and Code of Practice and the SAMOAC guideline document)

(10) An application fee as determined by Council is payable.

(11) The height of a billboard shall not exceed 12m unless otherwise approved by Council.

25. TRANSIT SIGNS

(1) Transit advertising signs shall only, be permitted to be displayed if mobile at all times and comply with all requirements of Road Traffic legislation.

(2) The parking of a transit advertising sign on Council or private property for the purposes of third-party advertising is prohibited.

(3) Transit advertising signs parked on private property for the purpose of storage shall be positioned in such a manner as not to be visible from a street or public place.

(4) Notwithstanding the provisions of sub-clauses (1), (2) and (3) or otherwise in contravention of these By-laws, the Council or its authorised agent may, without prior notice, carry out the removal and impoundment of such transit advertising sign.

(5) A transit advertising sign impounded by the Council may be released in terms of Clause 33 (5)(a) within a period of 3 months of notification or such sign shall be disposed of by Council to defray any fines or removal costs involved.

(6) A transit advertising sign impounded by the Council shall only be released after the removal cost and fine are settled in full and a copy of the current license registration papers have been submitted for verification.

26. POSTERS

(1) (a) No person shall in, or in view of, any street display or cause or allow it to be displayed any poster unless he has first obtained the written permission of the Council;

(b) No permission shall be given for the display of any poster concerning any commercial undertaking or activity or concerning any activity which, in the opinion of the Council, is primarily or mainly of a commercial character.

(2) Every application for permission required in terms of sub-clause (1) shall be accompanied by an application fee or a deposit as determined by Council, and written details of the townships and streets in which the posters are to be displayed and all the posters to which the application relates: Provided that for National, Provincial or Municipal elections only one poster need be submitted and an application fee paid by each candidate as determined by Council Provided that for National, Provincial or Municipal referendums only one poster need be submitted and an application fee paid by each registered political party as determined by Council

(a) every poster for which permission is granted in terms of sub-clause (1) shall be provided with a Council sticker and only posters with Mandeni Municipality stickers affixed or approved Mandeni Municipality markings shall be displayed,

(b) the Council shall be entitled to retain one such poster for identification purposes.

(3) Any person who displays or causes or allows to be displayed in or in view of a street, a poster, for which permission has been granted in terms of sub-clause (1), shall ensure that the following requirements are complied with

(a) no poster shall be so displayed that any part of it is lower than 2.1m or higher than 3m above the sidewalk or ground level immediately below it;

(b) no poster displayed by any person shall be indecent, or suggestive of indecency, prejudicial to public morals or reasonably objectionable;

- (c) no poster shall be displayed on motorways including on and off-ramps;
- (d) every poster other than a parliamentary, provincial or municipal election or referendum poster shall be displayed in a permanent frame or other approved backing, of a design and in a predetermined location approved by the Council. The maximum size for frames shall not exceed:

Advertising posters	900mm high x 600mm wide; (A1 size)
Press posters	600mm high x 450mm wide. (A2 size)

- (e) every parliamentary, provincial or municipal election or referendum poster shall be attached to a board made of wood, hardboard, correx or other approved weatherproof material, in such a manner that it will not become wholly or partially dislodged by wind or rain, and neither the board nor poster shall exceed 900mm high x 600mm wide or be less than 600mm high x 450mm wide, and secured only to an electric light standard erected by the Council or the State in a street or public place: Provided that such board is secured to such light standard by means of stout string or plastic ties only (no securing material with a metal content is permitted);
- (f) the 'frame' referred to in paragraph (d) shall not be placed on or against or attached to or otherwise supported by any transformer box, telegraph pole, tree, road traffic sign or other sign or object with the exception of an electric light standard erected by the Council or the State in a street or public place, provided such frame is secured to such light standard in such a manner (to the approval of the Council) that it will not become or wholly or partially dislodged by wind or any other means, and positioned in such a manner that it does not obscure or interfere with the electrical inspection chamber or pole identification number or impair the safety of motorists or pedestrians, maximum of 2 frames per pole. No frame shall be erected within 10m of a traffic sign unless the prior approval of the Council has been obtained;
- (g) no poster relating to a meeting, function or event, other than a National, Provincial or Municipal election or referendum shall be displayed for longer than ten days before the date on which such meeting, function or event begins or longer than four days after the date on which it ends;
- (h) no poster relating to a parliamentary, provincial or municipal election or to a specific candidate in such election or a poster relating to a referendum shall be displayed for longer than the period extending from the beginning of either the date, of nomination or the date of proclamation in the Government Gazette declaring that a referendum is to be held, as the case may be, to the end of the tenth day after the date of such election or referendum: Provided that posters not relating to a specific candidate may also be displayed for a period no longer than that extending from a date fourteen days prior to either nomination day or the date of proclamation in the Government Gazette declaring a referendum

is to be held, as the case may be, to the end of the fifth day after the date of such election;

(i) subject to the discretion of the Council, not more than 2000 posters shall be displayed at any one time in relation to any meeting, function or event, other than a National, Provincial or Municipal election or referendum or a meeting relating to an election or referendum;

(j) in respect of each candidate not more than 1000 posters or other advertisements shall be exhibited at any one time in any municipal ward or as otherwise directed by Council; in respect of a referendum not more than 5000 posters or other advertisements per registered political party shall be so exhibited in the municipal area of the Mandeni Municipality or otherwise directed by Council.

(k) the details of the event, the commencement and final date of the event and the venue with address where it is to be held must appear on the posters in letters not less than 50mm in height and 10mm in thickness, with all other information pertinent to the event in letters not less than 30mm in height and 5mm in thickness;

(l) the commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster;

(m) the posters may not have a display period of more than 28 consecutive days for any event advertised.

(n) the display of posters on any bridge or in sensitive areas identified by the Council, is prohibited.

(o) the display of auction posters shall only be within the area of jurisdiction of the Mandeni Municipality, duly authorised by the Sheriff of the Court, to a maximum of 40. The Case Number or Masters Reference Number must be displayed on the poster. A writ is to be produced on submission.

(p) the display of political posters not directly for the purposes of a National, Provincial or Municipal election or referendum, shall be regarded as advertising.

(4) The provisions of sub-clause (2) shall not apply in respect of a poster relating to an election, or a referendum, which:-

(a) is placed entirely inside private premises;

(b) is displayed in or on a motor vehicle;

(c) is displayed at the committee room clearly marked as such, of a candidate in an election; or

(d) fixed to an advertising hoarding for which approval has been granted in terms of Clause 2.

(5) Any poster which is displayed without permission or in contravention of this Clause may without notice be removed and destroyed by the Council or persons appointed by the Council. Any costs incurred by the Council in the removal will be borne by the person who displayed the poster or caused, or allowed it to be displayed.

27. FIXING OF SIGNS AND HOARDINGS

(1) All signs and hoardings shall be properly constructed of the requisite strength and shall, be securely fixed to the satisfaction of the Council.

(2) The person by whom such signs and hoardings are erected and the owner of the fixture on which or to which they are attached shall assume all liability and responsibility in connection therewith, including maintenance, and shall undertake at least one annual inspection thereof with a view to satisfying themselves as to the safety thereof.

(3) Every sign or hoarding shall be repainted and cleaned regularly in order to prevent them from becoming unsightly.

(4) The Council may require certification by a person as defined in Clause 2(5) that the installation is structurally safe.

28. DESIGN REQUIREMENTS FOR SIGNS

Regulations for Clause 2(12)

(1) Definitions

"An item of information" on a sign means a syllable, an initial, a symbol or logo, an abbreviation, a group of numbers (e.g. a telephone number), a broken plane (i.e. more than one geometric shape or background area) and a graphic feature.

(2) Design requirements

(a) No information sign may contain more than 10 items of information: Provided that in the case of establishments with long names, such names should not be counted as more than 4 items of information provided that they appear only once per street frontage and the lettering is of the same size, style, colour and typeface.

(b) Lettering 70mm in height or less will not be counted as an item of information.

(c) Architectural letters less than 500mm in height and carved into the material of a building or attached securely to it are not counted as items of information:
Provided that:

(i) the letters are not specially illuminated;

(ii) the letters are not constructed of a shiny material;

(iii) the colour of the letters does not contrast sharply with that of the building's surface;

(iv) the letters do not exceed 50mm in thickness.

(3) Sign formats

Any sign requiring approval in terms of Clause 22 and which is required to conform to Clause 22(3) may be exempt from submitting further individual applications in instances where a prototype sign format was approved by the Council.

29. MATERIALS FOR ADVERTISING SIGNS, HOARDINGS, SCREENS AND SUPPORTING STRUCTURES

(1) All iron or steel used in any advertising sign, hoarding or screen referred to in Clause 13 or as means of support for such sign, hoarding or screen shall be painted or otherwise effectively protected against corrosion.

(2) No water soluble adhesive tape or other similar material shall be used to display or secure any advertising sign elsewhere than on a hoarding or within a fixture referred to in Clause 4 (1) (d).

30. POWER CABLES AND CONDUITS TO SIGNS

(1) Every power cable and conduit containing electrical conductors for the operation of a sign shall be so positioned and fixed that it is not unsightly.

(2) No advertising sign or hoarding shall be connected to any electricity supply without the prior written permission of the relevant electricity supply authority. Such proof of permission shall be submitted if requested.

31. ERECTION AND MAINTENANCE OF ADVERTISING SIGNS AND HOARDINGS

(1) If, in the opinion of the Council, any advertising sign or hoarding is in a dangerous or unsafe condition or has been allowed to fall into a state of disrepair or interferes with the functioning of any road traffic sign, the Council may serve a notice on an owner requiring him at his own cost, to remove the sign or hoarding or do other work specified in the notice within a period so specified.

- (2) The Council may, if in its opinion an emergency exists, instead of serving notice in terms of sub-clause (1) or if such notice has not been complied with within the period specified therein, itself carry out the removal of a sign or advertising hoarding or do other work which it may deem necessary and may recover the cost thereof from the owner referred to in sub-clause (1).
- (3) The Council shall, should an approved advertising hoarding not display an advertisement or message for a period more than 12 months or as otherwise agreed to by Council, serve a notice on the owner requiring him, at his own cost, to remove the hoarding or to display an advertisement or message within a period so specified.

32. NATIONAL BUILDINGS REGULATIONS

Should any conflict exist between these By-laws and the National Building Regulations and Building Standards Act 103 of 1977, the Act shall prevail.

33. CHARGES

- (1) Every person who applies to the Council for its approval or permission shall on making application pay to the Council the charge determined therefor and no application shall be considered until such charge has been paid.
- (2) The fines and penalties for offences in terms of Clause 36 are set out below:
 - (a) upon conviction of an offence, the guilty party shall be liable to a fine not exceeding R15,000.00 or, in default of payments, to imprisonment for a period not exceeding 12 months;
 - (b) in the case of a continuing offence, the guilty party shall be liable to a further fine not exceeding R1000.00 for every day during the continuance of such offence;
- (3) The cost involved for the removal of unauthorised posters by Council, which cost shall be recovered from the owner of such unauthorized poster(s), will be:
 - (i) per poster (unpasted) R 100,00
 - (ii) per poster (pasted) R 500,00
 - (iii) per poster (flyposter) R1 000,00
 - (iii) Saturdays relevant charge plus 50%
 - (iv) Sundays relevant charge plus 100%

(4) Spot fines to a maximum of R5000.00 may be served by duly authorised officials of the Council on offenders for any contravention or failure to comply with the terms of these By-laws.

(5) Any signs or advertising boards which have been removed and impounded but not destroyed by the Council as a result of them not complying with these By-laws may be released to the original owner at the following rates:

(a) transit advertising signs may be released at the cost of removal with a minimum fee of R500.00 plus R100.00 per square metre of advertising display or part thereof;

(b) for all other signs the charge will be the cost of removal with a minimum of R500.00 plus R50.00 per square metre of advertising display or part thereof;

(c) signs removed and not released within 3 months shall be disposed of by the Council;

34. DAMAGE TO COUNCIL PROPERTY

(1) No person shall intentionally or negligently, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause damage to any tree, electric standard or service or other Council installation or property.

(2) The costs for any repairs necessary will be for the account of persons in terms of Clause 38.

35. ENTRY AND INSPECTION

The Council shall be entitled, through its duly authorised officers, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of these By-laws.

36. OFFENCES

Any person who -

(a) contravenes or fails to comply with any provision of these By-laws

(b) contravenes or fails to comply with any requirement set out in a notice issued and served to him in terms of these By-laws;

(c) contravenes or fails to comply with any condition imposed in terms of these By-laws;

(d) knowingly makes a false statement in respect of any application in terms of these By-laws;

shall be guilty of an offence and shall on conviction be liable to a fine or imprisonment as set out in Clause 33(2)(a), and in the case of a continuing offence to a fine, as set out in Clause 33(2)(b), for every day during the continuation of such offence after a written notice has been issued by the Council requiring discontinuance of such offence, and for a second or subsequent offence he shall be liable on conviction to a fine or imprisonment as set out in Clause 33(2)(c).

37. PRESUMPTIONS

If any person is charged with an offence referred to in Clause 36 relating to any design, advertising hoarding or poster:

- (a) it shall be deemed that he either displayed such advertising sign, hoarding or poster or caused or allowed it to be displayed;
- (b) the owner of any land or building on which any advertising sign, hoarding or poster was displayed, shall be deemed to have displayed such advertising sign, hoarding or poster or caused or allowed it to be displayed;
- (c) any person who was either alone or jointly, with any other person responsible for organizing, or was in control of, any meeting, function or event to which a sign or poster relates, shall be deemed to have displayed every sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be displayed;
- (d) any person whose name appears on an advertising sign, hoarding or poster shall be deemed to, have displayed such advertising sign, hoarding or poster or to have caused or allowed it to be displayed unless the contrary is proved.

38. REMOVAL OF ADVERTISING SIGNS OR HOARDINGS

- (1) If any advertising sign or hoarding is displayed so that in the opinion of the Council it is detrimental to the environment or to the amenities of the neighbourhood, or otherwise in contravention of these Bylaws, the Council may request or serve a notice on the owner of the advertising sign or hoarding to remove such advertising sign or hoarding or carry out such alteration thereto or do such work as may be specified in such request or notice within a time specified,
- (2) If a person fails to comply with a confirmed request or a notice referred to in sub-clause (1), the Council or its authorised agent may remove such an advertising sign or hoarding.
- (3) The Council shall in removing a transit sign, advertising sign or hoarding contemplated in sub-clause (1) not be required to compensate any person in respect of such advertising sign or hoarding, in any way of loss or damage resulting from its removal.

- (4) Any costs incurred by the Council in removing a transit sign, advertising sign or hoarding, in terms of sub-clause (2) or in doing alterations or other works in terms of this Clause may be recovered from the person on whom the notice contemplated in sub-clause (1) was served, or if a deposit has been paid in respect of such advertising sign or the costs may be deducted from the deposit
- (5) Notwithstanding the provisions of sub-clauses (1), (2), (3) and (4) if an advertising sign or hoarding:
- (a) constitutes a danger to life or property;
 - (b) is obscene;
 - (c) is in contravention of these by-laws and is erected on, attached to or displayed on any property of, or under the control of the Council;
- the Council may, without serving any notice, remove any such advertising sign or hoarding or cause it to be removed.

39. SERVING OF NOTICES

Where any notice or other document is required by these By laws to be served on any person, it shall be deemed to have been properly served if served personally on him or any member of his household apparently over the age of sixteen years at his place of residence or on any person employed by him at his place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company or closed corporation or a trust, if served on any person employed by that company, closed corporation or a trust, if served on any person employed by that company, closed corporation or trust at its registered office or sent by registered post to such office.

Any verbal request for action to be taken in terms of these By-laws shall be confirmed in writing.

40. PUBLIC NOTICE OF APPLICATION

- (1) The applicant shall cause a notice containing the details of his application as prescribed in Schedule 1 to these by-laws, to be published once a week for two consecutive weeks in a English language – and one other official language newspaper circulating in the area of the erf or site to which the application relates.
- (2) The applicant shall post a notice in English and one other official language in such form as prescribed in Schedule 2 to these by-laws in a conspicuous place and within 3 metres from the proposed siting of the sign/hoarding or in such other place, form and manner as may be determined by the Council. Such notice shall be maintained by the applicant for a period of at least 14 days from the date of the first publication of the notice contemplated in sub-clause (1) above.

- (3) The notice referred to in sub-clause (1) and (2) shall, in addition to containing details as prescribed in the relevant schedules, state that the application documents relating to the application will be open for inspection, from the date of the first publication as contemplated in sub-clause (1) above and at specified times and a specified place at the Council's offices.
- (4) The notice referred to in sub-clauses (1) and (2) shall further state that any objection in regard to the application shall be submitted in writing both to the Council and the applicant under cover of registered or certified post or by hand within a period of 14 days from the date of the publication of the first notice contemplated in sub-clause (1). The applicant shall within 14 days from receipt of the objection forward his reply thereto to the local authority.
- (5) The applicant shall submit proof to the satisfaction of the local authority that he has complied with the provisions of sub-clause (1) – (4).
- (6) All advertising signs and hoardings shall be classified by the Council and above notice shall apply to those classes of advertising signs and hoardings as may be determined by the Head: Outdoor Advertising.

41. HEARING

- (1) Where objections have been lodged in respect of the application, the Council shall, hear the objections or representations.
- (2) Where such objections lodged are to be heard by Council, the council shall determine a day, time and place for the hearing.
- (3) Not less than 14 days prior to the day determined in terms of sub-clause (2), the Council shall notify the applicant and every objector of the day, time and place so determined.
- (4) At the hearing the Council shall adopt its own procedure in compliance with the rules of natural justice.

42. APPEALS

- (1) An applicant or objector who is aggrieved by the Council's decision may appeal against that decision and shall give written notice of the appeal including the grounds of appeal to the Municipal Manager within 21 days of the date of the notification of the decision in terms of Clause 2(8).
- (2) A committee of Councillors who were not involved in the original decision will be the appeal authority.
- (3) Such appeal authority must commence with such an appeal within six weeks from date of the Notice of Appeal and decide the appeal within a reasonable period.

43. REPEAL OF BY-LAWS

SCHEDULE 1

NOTICE OF APPLICATION FOR THE ERECTION OF ADVERTISING SIGNS/ HOARDINGS IN
TERMS OF CLAUSE 40(1) OF THE ADVERTISING SIGNS AND HOARDINGS BY-LAWS OF THE
MANDENI MUNICIPALITY

NAME OF APPLICANT:

ADDRESS OF APPLICANT:

Physical:

Postal:

NAME OF OWNER UPON WHICH SIGN IS TO BE SITED:

ADDRESS OF OWNER UPON WHICH SIGN IS TO BE SITED:

Postal:

DESCRIPTION OF PROPERTY ON WHICH SIGN IS TO BE SITED:

PHYSICAL ADDRESS OF THE PROPOSED SIGN:

DIMENSIONS OF ADVERTISING SIGN:

Particulars of the application will lie for inspection from 8:00 till 13:00 and 13:30 till 15:30 with the Council at the office of (address & room number) for a period of 14 days from (the date of the first publication of the notice contemplated in clause 40(1) of the by-laws).

Objections in respect of the application must be lodged in writing to the Council and the applicant at the above respective addresses or at the postal address as indicated by the applicant and the following postal address of the Council within a period of 14 days from Such objection MUST INCLUDE THE POSTAL ADDRESS OF THE PERSON MAKING THE OBJECTION however shall not determine the validity of such objection.

I being the applicant in this matter hereby certify that the application shall be submitted to the Council and open for inspection from the prescribed period.

DATE: SIGNED:

**Note: Size of advertisement shall be the standard size for legal notices contained in the majority of newspapers.*

SCHEDULE 2

**NOTICE OF APPLICATION FOR THE ERECTION OF ADVERTISING SIGNS/ HOARDINGS IN
TERMS OF CLAUSE 40(2) OF THE ADVERTISING SIGNS AND HOARDINGS BY-LAWS OF THE
MANDENI MUNICIPALITY**

NAME OF APPLICANT:

ADDRESS OF APPLICANT:

Physical:

Postal:

NAME OF OWNER UPON WHICH SIGN IS TO BE SITED:

ADDRESS OF OWNER UPON WHICH SIGN IS TO BE SITED:

Postal:

DESCRIPTION OF PROPERTY ON WHICH SIGN IS TO BE SITED:

PHYSICAL ADDRESS OF THE PROPOSED SIGN:

DIMENSIONS OF ADVERTISING SIGN:

Particulars of the application will lie for inspection from 8:00 till 13:00 and 13:30 till 15:30 with the Council at the office of (address & room number) for a period of 14 days from (the date of the first publication of the notice contemplated in clause 40(1) of the by-laws).

Objections in respect of the application must be lodged in writing to the Council and the applicant at the above respective addresses or at the postal address as indicated by the applicant and the following postal address of the Council within a period of 14 days from Such objection MUST INCLUDE THE POSTAL ADDRESS OF THE PERSON MAKING THE OBJECTION however shall not determine the validity of such objection.

I being the applicant in this matter hereby certify that the application shall be submitted to the Council and open for inspection from the prescribed period.

DATE: SIGNED:

**Note: Size of advertisement shall be A1 for each language as prescribed.*

MANDENI MUNICIPALITY

TARIFF OF CHARGES: ADVERTISING SIGNS AND HOARDINGS

- (a) In terms of Section 2(1) (i.e. applications or signs set out in Sections 6 to 16 and 20 to 23 inclusive) the approval fee is R50.00 per square metre of advertising display or part thereof, with a minimum fee of R500.00 per application.
- (b) In terms of Section 19(3) (i.e. advertisements on banners or similar items) an application fee of R200.00 is required.
- (c) In terms of Section 26(2) (i.e. posters) –
- (i) An application fee of R1.00 per poster be paid to permit the display of posters of non-profit bodies only. These posters have to display the fundraising numbers of the bodies or a formal constitution has to be submitted to Council. No commercial advertising and logos of sponsors will appear on posters;
 - (ii) An application fee of R5.00 per poster with a minimum fee of R200.00 be paid to permit the display of posters for religious, sporting, social and cultural events, with commercial advertising and logos of sponsors. The commercial advertising shall not exceed 20% of the area of the poster, not is any lettering to be larger than any other lettering:
 - (iii) An application fee of R500.00 per candidate (fully refundable on removal) for a National, Provincial or Municipal election;
 - (iv) An application fee of R5 000.00 per registered political party. (fully refundable on removal) for a Parliamentary, Provincial or Municipal referendum; and
- (d) In terms of Section 24 (Billboards, Spectaculars or any sign in excess of 24sq.m as defined in Section 1) an application fee of R500.00 is required for consideration of approval with a further amount of R100.00 per square metre of advertising display payable for a five year approval by council irrespective of whether the sign is erected on private or Council land.
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GENERAL NOTICE

NOTICE 413 OF 2011**DEPARTMENT OF ENVIRONMENTAL AFFAIRS****NATIONAL POLICY FOR THE PROVISION OF BASIC REFUSE REMOVAL
SERVICES TO INDIGENT HOUSEHOLDS**

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby publish for general information the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households set out in the Schedule hereto.

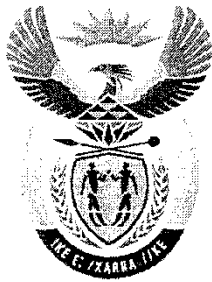
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MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

**NATIONAL POLICY FOR THE PROVISION OF BASIC
REFUSE REMOVAL SERVICES TO INDIGENT
HOUSEHOLDS**

OCTOBER 2010



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Abbreviations

DEAT	former Department of Environmental Affairs and Tourism now Department of Environmental Affairs
DORA	Division of Revenue Act as enacted at the beginning of April every year
DPSA	Department of Public Service and Administration
DPLG	former Department of Provincial and Local Government now DCGTA
DWAF	former Department of Water Affairs and Forestry now Department of Water Affairs
DEA	Department of Environmental Affairs
ESG	Equitable Share Grant
BRR	Basic Refuse Removal
FBS	Free Basic Services
FSL	Full Service Level
MIG	Municipal Infrastructure Grant
NEMWA	National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)
RSA	Republic of South Africa

Foreword

The provision of an adequate and sustainable waste service delivery system in South Africa has had many challenges and there has been very little progress with regard to significant improvement in this area. There are many households in the country that still have no access to waste services (DEAT 2007). Some households just cannot afford the cost of waste services including refuse removal due to their poor economic situation. The Constitution of the Republic of South Africa places the responsibility on government to ensure that every person has access to basic services, in order to make sure that poor people or households are not discriminated against due to their economic status.

The policy approach to basic services since 1994 has been that government funded the capital costs of new services infrastructure while the users covered operation and maintenance costs. The poorest (indigent) cannot afford the charges. As such, this arrangement would not be adequate to ensure either sustainability of services or equity of access to services. The adoption of the *Free Basic Services Policy* in 2001 to provide a basket of free basic services to all, linked to an indigent policy which targets the poorest sections of communities, has become an integral part of the programme to alleviate poverty among poor households. The basket of services includes solid waste, water, sanitation and electricity. Since the introduction of the policy by government in 2001, the government has made progress in giving effect to the right to free basic services. Policies with regard to free basic water, free basic energy and free basic sanitation have already been developed and implemented. Therefore, the *National Policy for the Provision of Basic Refuse Removal Services to Indigent Households* is an addition to the list.

Critical to the provisioning of services is an acknowledgement of the differentiated capacities of municipalities in providing the services. However, there needs to be some level of uniformity in the range of services that are provided, in order that citizens of this country do not experience different standards of service. Currently there are major discrepancies in the provisioning of waste services; in particular, low income and rural areas still receive very low levels of service as opposed to high income areas.

The National Policy for the Provision of Basic Refuse Removal Services to Indigent Households comes into effect at a time when the Waste Act (Act No. 59 of 2008) has been enacted (RSA, 2008). The Waste Act compels municipalities to put in place Integrated Waste Management Plans (IWMPs) and provide receptacles for recyclables. In addition, the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households links to existing Indigent Policies for municipalities. The Policy was also developed taking into consideration other initiatives by the Department of Environmental Affairs that include the development of the new *National Waste Management Strategy*.

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1 Introduction

This National Policy for the Provision of Basic Refuse Removal Services to Indigent Households paves the way for municipalities in South Africa to provide BRR services within their areas of jurisdiction. It has emerged over the years that South Africa has a backlog in terms of provisioning of basic refuse removal services. Most of the households that suffer from the prolonged lack of refuse removal are those from previously disadvantaged localities such as the high density, low-income areas. These are, in many instances the same households that are currently eligible for receiving free basic water and free basic electricity.

2 Problem Statement

South African municipalities face a number of challenges with respect to delivering an effective and sustainable waste service to all households, including insufficient budget, skilled capacity, lack of appropriate equipment and poor access to service areas. These challenges are exacerbated by growing urban populations who need access to municipal services and migration from rural to urban areas. South Africa's rapidly growing economy is also expected to see increasing volumes of waste being generated.

Waste management service delivery including refuse storage, refuse removal, refuse dumps and solid waste disposal, is a local government function in terms of Schedule 5 of the Constitution of the Republic of South Africa (RSA, 1996). A report on the status of waste service delivery and capacity at the local government level (DEAT, 2007) revealed certain challenges associated with waste service provision in the country. According to the 2006 South Africa Environment Outlook Report (DEAT, 2006) almost 50% of the population do not have access to waste services. The poor majority of South Africans, however, cannot afford to pay the full price for essential municipal services. Yet, in terms of Clause 74(2)(c) of the Municipal Systems Act, 2000 (Act No. 32 of 2000) poor households must have access to at least basic services.

Currently municipalities have differentiated capacities for providing services. However, a certain level of uniformity in the range of services provided needs to be established. All citizens of South Africa should experience the same standards of services irrespective of where they live. Therefore municipalities must adopt similar service standards, while ensuring sustainability of the service and appropriateness to their given local conditions. Such similar service standards can only be facilitated by a policy of this nature.

3 Policy Context and Objectives

3.1 Purpose

The purpose of the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households is to ensure that poor (indigent) households have access to at least basic (essential) refuse removal services from the concerned municipality. Meeting this purpose requires aligning the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households with already existing key relevant legislation, Indigent Policies for different municipalities, financial management systems, while being mindful of the need to ensure that there is uniformity when dealing with various cases of the indigent households.

3.2 Key legislative framework

The key legislative provisions informing the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households include:

- The Constitution of the Republic of South Africa Act: Clause 27 (1) (c) stipulates that everyone has the right to have access to social security, and if they are unable to support themselves and their dependants, appropriate social assistance. Clause 27 (2) places responsibility on the State to take reasonable legislative steps and other measures within its available resources, to achieve the progressive realisation of these rights (RSA, 1996).
- *White Paper on the Transformation of the Public Service of 1997*: Stipulates that service delivery is one of Government's eight priorities (DPSA, 1997). To this effect, Government has launched an initiative under the banner of *Batho Pele*- meaning 'People First' in Sesotho -aimed at improving the delivery of public services (including waste management services).
- Local Government: Municipal Systems Act (Act No. 32 of 2000): Clause 74 stipulates that a municipal council must adopt and implement a tariff policy and Clause 74(2) (i) indicates that in adopting a tariff policy, the council should at least take into consideration the extent of subsidization of tariffs for poor households (RSA, 2000).
- Municipal Finance Management Act (Act No. 56 of 2003): Clause 62 states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality (RSA, 2003). For the purposes of many municipal indigent policies the accounting officer (usually the Municipal Manager or Chief Finance Officer as delegated) must take all reasonable steps to ensure that the municipality has and implements an indigent policy.

3.3 Objectives

The following objectives inform the National Policy on BRR services:

- a) To establish a framework for the development, identification and management of indigent households that can be enrolled for the BRR service within their municipalities.
- b) To set broad principles, resulting in the adoption of by-laws for the implementation and enforcement of tariff policies that will support BRR service in concerned municipalities.
- c) To educate and raise awareness within municipalities regarding proper handling of domestic waste for BRR as well as for the need to minimize waste and promote recycling.

4 Definitions

"Equitable Share" means an allocation made by the National Government during a financial year, in its fiscal allocation, gazetted through the Division of Revenue *Ad* (DORA) in order to assist municipalities to fund various expenses including expenses such as BRR services.

"Basic Refuse Removal" means a baseline service level as established under Clause 9.1 of this National Policy for the Provision of Basic Refuse Removal Services to Indigent Households.

"Domestic Waste" means waste, excluding hazardous waste, that emanates from premises that are wholly or mainly for residential, educational, health care, sport or recreation purposes as defined in the National Environmental Management: Waste Act (Act No. 59 of 2008).

"Household" means a collection of individuals staying on a distinctive property and/or premises regardless of their relationships.

"Indigent" means a person that is unable to pay the full economic costs of municipal services due to a number of legitimate factors.

¹ This Act rules the fiscal allocation of National Government per financial year. The DORA of the current financial year will therefore be of relevance.

"Indigent household" means any household that is at or below the poverty threshold as determined by the concerned municipality.

"Indigent Policy" means an indigent policy approved by a particular municipality.

"Indigent Register" means a record of the indigents established and maintained by the concerned municipality as per the provisions of an indigent policy.

"Municipality" means a municipality as defined by the Municipal Systems Act (Act No. 32 of 2000).

"Refuse" means domestic waste as defined by the National Environmental Management: Waste Act (Act No. 59 of 2008).

5 Underlying Fundamentals

The National Policy on BRR service puts in place a framework that aims to address three key pillars listed below in order of priority namely:

- Gaining access (capital expenditure for BRR services)
- Maintaining access (operating expenditure for BRR services) and
- Targeting the poor (revenue mechanisms that will remove the financial burden from the indigents)

The three key fundamentals are wholly, and in some cases at least partially enshrined in many existing Indigent Policies for municipalities in South Africa.

6 Applicable Principles

In implementing the National Policy on BRR services, the following principles apply:

1. A municipality must ensure that any relief provided in terms of the National Policy on BRR services is constitutional, practical, fair, equitable and justifiable.
2. There will be differentiation between households based on indigence but not service level in accordance with this policy, legislation and the resolutions of Municipal Councils.
3. A municipality should provide BRR services within the bound of their financial stability and sustainability.
4. A municipality should review and amend the qualification criteria for indigent support for BRR services on a regular basis as provided by it as and when necessary.
5. A municipality should put in place BRR services administrative support structures ensuring effective and efficient mechanisms of implementation.
6. BRR services' tariffs should be clear and easily understandable.
7. Operating subsidies for BRR services within the municipality's jurisdiction should be well targeted in order to reach the identified indigent.
8. Indigent households must formally apply using the municipal system as specified and will qualify for such support according to the specified criteria/principles laid down by the municipality.
9. Indigent households registered for BRR services must be re-evaluated after a given period of time as specified by the concerned municipality.
10. Disciplinary measures specified by the municipality should be imposed on households and/or individuals who abuse the BRR services.
11. The municipality will put in place reasonable measures to publicise the BRR services within its jurisdiction, including measures to put in place an effective communication programme.
12. The roles of the social worker/municipal official/councillor/traditional leader or any other authority so designated in the evaluation of the indigent household for the BRR services should be fully recognised and specified.
13. The list of applicants for BRR services should be made available for public scrutiny for at least one month at accessible public points within the municipality (i.e. libraries and clinics).

14. Clear registration procedures including cut-off dates must be specified (registration to take place in January and/or February of each year so as to provide the municipality with the numbers of indigents to be planned for in the next financial year's budget).

7 Recipients of Basic Refuse Removal Services

7.1 Main criterion

The main criterion for determining the qualifying recipients of BRR services is registration on a municipality's indigent register as provided for by the indigent policy of the municipality.

7.2 Other supporting criteria

The following criteria can be used in the absence of, or in addition to the main criterion to determine the qualifying recipients of the BRR services:

- Level of income: Monthly net household income of members of less than or equal to *two old age pensions (including children/individuals who may get state grants)*.
- Residence status: Everybody residing in the municipality provided their indigent status have been verified.
- Special considerations: All child headed households, households headed by pensioners and people with disabilities
- Value of property (need to note that inherited properties might give false income level status).
- Any other criteria as determined by the specific municipality

8 Basic Refuse Removal

8.1 Defining a basic refuse removal service level

The basic refuse removal service level is defined as the most appropriate level of waste removal service provided based on site specific circumstances. Such a basic level of service, be it in an urban or rural set-up, is attained when a municipality provides or facilitates waste removal through:

- a) On-site appropriate and regularly supervised disposal in areas designated by the municipality (applicable mainly to remote rural areas with low density settlements and farms supervised by a waste management officer);
- b) Community transfer to central collection point (medium density settlements);
- c) Organised transfer to central collection points and/or kerbside collection (high density settlements); and
- d) Mixture of 'b' and 'c' above for the medium to high density settlements.

8.2 Spatial and settlement demarcation for Basic Refuse Removal services

The appropriate levels of service for settlement densities with regard to solid waste management (adapted for this National Policy on BRR services) (DWAf, 1999: 8) are as follows:

- *More than 40 dwelling units per hectare (high density)*: Frequent and reliable formal collection and disposal of solid waste to a landfill is required
- *10-40 dwelling units per hectare (medium density)*: Communal collection and formal disposal of household refuse and litter is required

- *Less than 10 dwelling units per hectare (low density):* On-site disposal of general household waste in areas so designated by the municipality and in accordance with the relevant guidelines for on-site disposal provided by the municipality.

8.3 Collection frequency (applicable to medium and high density settlements)

The collection frequency is dependent on the composition and the volumes of waste generated. The most appropriate collection frequency in medium and high density settlements is set out as:

- At least once a week for purely biodegradable domestic waste but on-site composting should be promoted.
- At least once a month for recyclable materials in rural areas.
- At least once fortnightly for recyclable materials in urban areas.

8.4 Issuance of free receptacles

- The municipality must provide appropriate free receptacles for refuse storage.
- The number of free receptacles provided per household should be calculated based on the number of individuals residing in the household.
- The municipality should devise appropriate strategies to maintain a constant and consistent supply of such free receptacles.
- Most communities do not consider the provision of skips as a 'service'. Where this alternative is unavoidable, the municipality should ensure that the refuse is collected for placement in the skip as part of the service. Skips must be serviced frequently enough to avoid littering or dumping.

8.5 Delimitation of domestic waste

Domestic waste is defined in the National Environmental Management Act: Waste Act (Act No. 59 of 2008) (RSA, 2008) as quoted in Clause 5 above. For the purposes of this Policy it may be required to limit domestic waste collection to exclude commercial and industrial waste, building rubble and 'hard' or non-compostable garden waste.

9 Financing Basic Refuse Removal Services

In general, municipalities can only make informed decisions about the financing of BRR services if they understand the costs of different elements of the service (DEAT, 2002a). Thus, the first step required of a municipality in financing a BRR service is to establish the costs of providing the service (DEAT, 2002). For example, an understanding of these costs is important in determining the scale of implementation that can be funded through the equitable share grant. In addition, it is important in the development of a municipal tariff strategy that will ensure that sufficient revenues are generated to cover these costs (DEAT, 2002a), and thus for determining the extent to which the municipality can generate internal revenue for financing the policy.

9.1 Financing mechanisms for Basic Refuse Removal services

The required revenue for providing BRR services can come from one or both of two main sources of income, namely internal sources (such as cross subsidies within the municipality); and external sources, primarily the equitable share grant. In general, the following internal and external sources of funding are available to the municipality for the provision of BRR services:

- Internal sources, i.e. revenues from local tariffs and other taxes levied and collected by municipalities themselves:
 - o Core municipal administration revenue, e.g. property rates
 - o Cross subsidies from non-residential and wealthy consumers of the service in question, who are charged higher rates (above what is required for cost recovery) at higher levels of use (e.g. through a rising block tariff structure) to generate surplus revenues, which are used to cover the cost of providing lower levels of the service free of charge to poorer consumers
- External sources, in particular transfers from the national fiscus, through the
 - o Equitable Share Grant (ESG); and the
 - o Municipal Infrastructure Grant (MIG)

10 Implementation Strategies for Basic Refuse Removal Services

This policy takes into consideration the differences between offering a BRR service compared to that for free basic water and free basic electricity. For example, water comes to the individual household or community via a pipe and electricity comes to the individual household via a cable. Both water and electricity have off-site sources whereas refuse is generated on-site. Furthermore, the indiscriminate disposal of refuse and littering immediately affects the community, including those that would have been disposing of their refuse in a proper manner. Given the foregoing, the implementation strategies that can be adopted by municipalities in providing BRR services to their indigent households and communities are listed below.

10.1 Declare certain localities for Basic Refuse Removal Services

- A municipality may for practical reasons, declare certain areas or clusters as qualifying recipients of BRR. Examples may include low-income areas and high density, urban informal areas.
- Such declarations have added advantages in terms of administrative feasibility (logistics and costs included) especially where rate collection is challenging.
- A municipality may declare certain low density rural areas as areas where on-site disposal is deemed to be an appropriate waste management option.

10.2 Need to maintain accurate and updated indigent registers

- A municipality must maintain an accurate and updated indigent register. This indigent register must be updated on a half yearly or annual basis depending on the complexity of the system developed and implemented.
- A municipality must indicate specific registration periods for indigents.
- In this regard a municipality must have clearly defined administrative support structures in place and Indigent Register must be audited on a regular basis.

10.3 Action against malpractices

- Effective measures to identify fraudulent activities relating to the scope of this policy must be put in place.
- Any person found guilty of any offense relating to this policy must immediately cease to be a beneficiary of the BRR services
- The municipality must consider the merits of instituting legal procedures against the offender.
- The municipality must recover money owed for refuse removal in whatever lawful means.

10.4 Integrating Basic Refuse Removal services with existing Indigent Policies

- Many municipalities already have Indigent Policies in place, some of which were passed as by-laws.
- It is therefore the responsibility of municipalities to mainstream BRR services (where this is not currently happening) into existing Indigent Policies.

10.5 Institutionalisation of Basic Refuse Removal services

- The municipality must designate the administration of this Policy to the most appropriate department in the municipality e.g. the Waste Services Department or any other dealing with refuse removal.

10.6 Education and awareness raising

- Education and awareness raising relating to this policy must be ongoing activities.
- The municipality (through its relevant departments) must put in place effective and efficient education and awareness raising programmes not only to raise awareness on the BRR services but also on proper waste handling practices and waste minimisation.
- Where applicable, workers engaged in education and awareness activities must be drawn from the local communities.

10.7 Clarification of roles of the three spheres of government

The Constitution establishes a three sphere government system that includes the National Government, the Provincial Government and Local Government². Given that a failure to come up with a specific grid of responsibilities for each sphere of government could lead to duplication and possibly conflict and confusion, the grid in Appendix 1 indicates roles and responsibilities that could be associated with each of the three spheres of government in relation to BRR services.

11 Policy Restrictions

The restrictions impacting on the policy are: the financial climate, the socio-political set up, institutional arrangements as well as technical aspects. The following explanations are key:

1. *Financial*: how to finance and target the provision of BRR services in a sustainable and efficient manner.
2. *Socio-political*: how to establish successful communication and co-operation between consumers, councillors, local government officials and different spheres of government leading to the provision of the BRR services.
3. *Institutional*: how to develop the required organisational capacity and working relationships between different institutions involved in the BRR services.
4. *Technical*: how to choose the appropriate technical service level options to facilitate BRR Services.

² This sphere is further divided into District Municipalities, Metropolitan Municipalities and Local Municipalities. In implementing the Policy on BRR services, stakeholders need therefore to be aware of the different capacities of the municipalities in terms of the skills base and funding.

12 Policy Monitoring and Evaluation Plan

Policy implementation will be monitored through:

- A comparison of the percentage indigent households receiving BRR services over time.
- A comparison of the percentage serviced households receiving BRR services over time.
- Budget allocations - it can reasonably be expected that the implementation of the BRR services will see a reduction in illegal dumping and hence a reduction in budget allocations for clean-ups.
- Volumes of waste disposed at landfill - there may be a noticeable increase due to the roll-out of the BRR services to previously un-serviced areas. However, note should be taken that the improved BRR service and separation at source recycling drive will kick off simultaneously and that the potential increase in volumes at landfill sites will be counteracted by recyclables not reaching the landfill sites.
- The complaints register for domestic waste collection will serve as a reflection of problems experienced with the implementation of the BRR services.

The municipality should prepare an implementation plan (including targets) for the provision of BRR services. The targets for policy implementation will be informed by the available capacity of the municipality and included in the *Integrated Waste Management Plan* as envisaged by Clause 12(b)(v) of the National Environmental Management: Waste Act (Act No. 59 of 2008) (RSA, 2008).

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Appendix 1: Government roles and responsibilities in BRR service

<i>Government Level</i>		<i>Sp. Ic Roles and Responsibilities</i>	<i>Cross-cutting roles and responsibilities</i>
National		<ul style="list-style-type: none"> Put in place a National Policy on BRR services. Update the National Policy on BRR services Make the Provincial Governments aware of the existence of a National Policy on BRR services Get involved in provincial and municipal capacity building and training. 	<p>All to evaluate the National Policy on BRR services performance in terms of:</p> <ul style="list-style-type: none"> Effectiveness: Were the goals of the National Policy on BRR services achieved? If not, why were they not? Efficiency: Were the available resources for the BRR services implementation (human, financial, institutional and technical) utilised in the most efficient and cost-effective manner? Adequacy: To what extent does the BRR service address the problem of failed refuse removal? Equity: To what extent does the BRR services address imbalance of the past in terms of refuse removal backlogs? Responsiveness: Has the BRR services been sensitive and responsive to existing needs and preferences of stakeholders? Appropriateness: Are the strategies being implemented from the BRR services matching the expectations of the broad policy context?
Provincial		<ul style="list-style-type: none"> Determine municipality capacity in line with the National Policy on BRR services mandate with the aim of recommending to the Department of Cooperative Governance and Traditional Affairs (COOTA) what roles and responsibilities could be delegated to the concerned municipalities. Make the Local Municipalities aware of the existence of the National Policy on BRR services through the District Municipalities. Assist District Municipalities in drawing up guidelines on the implementation of the National Policy on BRR services for Local Municipalities 	
Local Government	District Municipalities	<ul style="list-style-type: none"> District Municipalities to make Local Municipalities aware of the existence of the National Policy on BRR services. This should be done with the view of explaining the Local Municipalities' mandate. Provide District Municipality-wide guidelines on implementing the National Policy on BRR services and where necessary render technical assistance to local municipalities with limited capacity. 	

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REPUBLIC OF SOUTH AFRICA
 DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
 NATIONAL ANTI-CORRUPTION UNIT

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	Metropolitan and Local Municipalities	<ul style="list-style-type: none"> • Integrate the National Policy on BRR service into existing Indigent Policies. This is in line with the fact that the existing municipal indigent policies do not address the issue of refuse removal adequately. • Is mandated to identify and select deserving indigent households for BRR services in their jurisdictions. - Raise awareness amongst the local communities and other stakeholders on the existence of a National Policy on BRR services - Set appropriate criteria and mechanisms for identifying the indigent household for the purposes of the National Policy on BRR services. • Establish proper risk management programmes in order to minimise 11-audent activities during the implementation of the National Policy on BRR services in their jurisdictions. • Regularly update their indigent registers. 	
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Appendix 2: Policy Development Process and Analysis of Alternatives

The development of the National Policy on BRR services followed three distinctive phases that included:

- Background research
- Stakeholder consultations
- Drafting of the National Policy on BRR services

Each of the three distinctive phases is briefly discussed in Sections 3.1 to 3.3.

Background research

This part involved reviewing documents of relevance to the subject. Insights from such background research resulted in the development of a series of reports by DEAT in 2009 that include:

- Addressing Challenges with Waste Service Provision in South Africa: Inception Report and Consultation Plan (DEAT, 2009a)
- Municipal Indigent Policy Review Report (DEAT, 2009b)
- Free Basic Services Policies Review Report (DEAT, 2009c)
- Waste Sector Challenges and Vision Report (DEAT, 2009d)
- Domestic Waste Collection Standards: Comparative Assessment Report (DEAT, 2009e)

Stakeholder Consultation

Stakeholder consultation included stakeholder representation on the Project Steering Committee, during regional workshops as well as through the project website.

Project Steering Committee

The project received strategic guidance from the Project Steering Committee comprising representatives from the following stakeholder groups:

- Department of Health
- Department of Co-operative Governance and Traditional Affairs
- Department of Water Affairs
- National Treasury
- Western Cape Province
- North West Province
- Gauteng Province
- South African Local Government Association
- Ethekwini Metro
- Mopani District Municipality
- Mbombela Local Municipality
- Buffalo City Municipality
- Institute of Waste Management of Southern Africa
- SANGOCO
- Business Unity South Africa
- Groundwork
- Responsible Container Management Association of Southern Africa
- Human Sciences Research Council

- National Recycling Forum
- COSATU

Regional Consultative Workshops

Three Regional Consultative workshops were conducted. The first workshop took place in Rustenburg (North West Province), the second was conducted in Durban (KwaZulu-Natal Province) and the third took place in Port Elizabeth (Eastern Cape Province). These centres of consultation were selected based on the spread of the different categories of municipalities to include the metropolitan municipalities and the B1 to B4 categories of local municipalities.

A combined discussion document entitled *Towards a National Policy for the Provision of Basic Refuse Removal Services to the Indigent Households and National Domestic Waste Collection Standards* (DEAT, 2009f) formed the basis for the consultations. During the deliberations, participants from across the three spheres of government and other interested and affected parties from organised labour and organised business discussed many aspects. Among the many issues discussed at length were alternatives for BRR services. Such discussions centred on understanding the dynamics brought about by the varying capacities of municipalities with a clear divide emerging between the predominantly rural and those that are pre-dominantly urban. Ideas emerging from the consultations were noted for inclusion in the finalisation of the drafting of the Policy.

Drafting of the National Policy for the Provision of Basic Refuse Removal Services to Indigent Households

After the Regional Consultative workshops, the Department of Environmental Affairs (DEA) collated the ideas from the consultative process into a draft Policy. The Draft Policy was subjected to the *Government Protocol on Policy Approval Procedures and Processes* including Cabinet Approval and publication in the Government Gazette for the required 60 days period for public comments. After incorporating public comments, the Policy was made effective through the established approval processes for such.

Appendix 3: Financial implications of BRR

The implementation of the BRR policy will require of municipalities to:

- Provide a waste collection service to qualifying households fully rebated; and
- Provide a waste collection service to previously un-serviced households in order not to discriminate against indigents who cannot afford to pay for their areas of residence to be serviced.

The cost implications of the implementation of the Policy on BRR should not be confused with the cost implication of addressing the service backlogs. To this effect the roll-out of waste collection services to previously un-serviced areas will require the provisioning of receptacles free of charge to all households eligible for the free service. The roll-out of services to previously un-serviced areas will have equipment and manpower implications. In municipalities where indigent households constitutes a large portion of the current backlogs in service delivery, the cost of extending the refuse collection service to cover such areas with a backlog will also contribute to the cost of providing the BRR service.

In order to estimate the cost of implementing BRR services, an accurate estimate of the full cost of waste collection services is required as well as accurate figures on indigent households. The wide range of charges for waste collection currently applied in municipalities (varying between R17 and R124 per household per month), reflects an *ad hoc* approach to tariff setting. This may be an indication of failure to understand the full costs of services that are provided. The 2010 National Treasury allocation of R 1346.4 per household per year is therefore used as basis for the calculations.

The number of households benefitting from an indigent support system are indicated in the national statistics data (Stats-SA, 2007)), but this is not necessarily an accurate reflection of actual indigent households. It is therefore impossible to accurately estimate the cost of providing BRR services. For the purposes of this estimate the National treasury number estimating the total number of poor households as 5 535 783 is used.

Allocations for refuse removal

National Treasury allocations (2010) used for calculations

Level of service	No. of poor households	Allocation/hh/year	Total Allocation/year (R)	Comment
Serviced	2176923	1346.4	2 931 009 127	Waste removal service
Un-serviced	3358860	501.6	1 684 804 176	Alternative service to waste removal
Total	5535783		4 615 813 303	

The allocation for supplying a BRR service to all indigent households in South Africa is therefore R 4 615 813 303 per year with the annual increases as allocated by National Treasury.

Potential savings from implementation of the Policy on BRR

The magnitude of littering and illegal dumping of domestic waste can be attributed to the lack of or inadequate waste collection services. Providing a BRR service could significantly reduce this portion of illegal dumping resulting in a cost saving on the clean-up of illegal dumping and littering. If the roll-out of BRR services is further combined with waste separation at source, there is the additional potential of income generation through the sale of recyclables. It is further envisaged that the roll-out of BRR services can create job opportunities for historically disadvantaged individuals in poor areas.

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